

**TOWN OF ACTON
ANNUAL TOWN MEETING WARRANT**

Commonwealth of Massachusetts

To either of the Constables of the Town of Acton,

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the legal voters of said Town of Acton, qualified to vote at Town Meetings for the transaction of town affairs, to meet in their respective precincts to wit:

Precinct 1 – Club House, Nagog Woods - 100 Nonset Path

Precinct 2 – Conant School – 80 Taylor Road

Precinct 3 – Blanchard Auditorium, R. J. Grey Junior High School – Charter Road

Precinct 4 – Blanchard Auditorium, R. J. Grey Junior High School – Charter Road

Precinct 5 – Blanchard Auditorium, R. J. Grey Junior High School – Charter Road

Precinct 6 – Conant School – 80 Taylor Road

at 7:00 A.M. the first day of April, 2003, by posting a copy of this warrant by you attested, at each of the places as directed by vote of the Town, fourteen days at least before the first day of April 2003,

To bring their votes on one ballot for the following officers:

Moderator for one year, one Selectmen for three years, two members of the School Committee for three years, one Trustee of the Memorial Library for three years, one Trustee for two years, one member of the Housing Authority for five years.

In addition, the Acton Water District will elect a Moderator for three years and a Commissioner for three years.

You are also to notify legal voters aforesaid to meet at the Acton-Boxborough Regional High School Auditorium in said Acton on Monday, April 7, 2003, at **7:00 P.M.**, then and there to act on the following articles:

CONSENT CALENDAR

In an effort to streamline Town Meeting, the Board of Selectmen has decided to continue the concept of a Consent Calendar. The use of this Calendar speeds the passage of articles which the Selectmen feel, in consultation with Town Counsel and the Finance Committee, should generate no controversy and can be properly voted without debate. The purpose of the Consent Calendar is to allow motions under these articles to be acted upon as one unit and to be passed without debate.

THE CONSENT CALENDAR WILL BE TAKEN UP AS THE FIRST ORDER OF BUSINESS AT THE COMMENCEMENT OF THE TOWN MEETING ON MONDAY, APRIL 7, 2003.

Please do your homework. If you have any questions about the consent articles, motions or procedure, please feel free to call the official listed in the summary of the article or to call the Town Manager's Office, 264-9612, before Town Meeting.

At the call of the Consent Calendar, the Moderator will call out the numbers of the Articles, one by one. If two or more voters object to any particular Article being included in the Consent Calendar, they should say the word "Hold" in a loud voice when the number is called. The Article is then removed automatically from the Consent Calendar and restored to its original place in the Warrant, to be debated and voted in the usual manner. After the calling of the individual items in the Consent Calendar, the Moderator will ask that all items remaining be passed AS A UNIT by the voters.

Please review the list of articles and motions proposed for each Consent item that follows. Complete summaries are found under each article printed in this warrant. Please review them carefully.

ARTICLE

MOTION

**** Elderly Tax Relief - Reauthorize Chapter 73 of the Acts of 1986:** Move that the Town continue to accept the provisions of Chapter 73 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988, providing for a 100% increase in certain property tax exemptions.

**** Council on Aging Van Enterprise Budget:** Move that the Town appropriate \$xxx for the purpose of operating the Town of Acton Senior and Disabled Citizen Van service, and to raise such amount, \$xxx be transferred from the Council on Aging Enterprise Fund.

**** Nursing Enterprise Budget:** Move that the Town appropriate \$xxx for the purpose of operating the Public Health Nursing Service, and to raise such amount, \$xxx be transferred from the Nursing Enterprise Fund.

**** Septage Disposal Enterprise Budget:** Move that the Town appropriate \$xxx for the purpose of septage disposal, and to raise such amount, \$xxx be transferred from the Septage Disposal Enterprise Fund.

**** Sewer Enterprise Budget:** Move that the Town appropriate \$xxx for the purpose of operating the sewer system, and to raise such amount, \$xxx be transferred from the Sewer Enterprise Fund.

**** Section 53E½ Self-Funding Programs:** Move that the revolving funds for the Local School System, Historic District Commission, Building Department, Sealer of Weights and Measures, Health Department, and Fire Department be continued for FY04 in the amounts and for the purposes set forth in the expense column of this article.

**** Plowing of Private Ways:** Move that the Town raise and appropriate \$12,500 to be expended by the Town Manager for plowing of private ways open to public use as designated by the Board of Selectmen. **(Note: to be removed from Consent if A budget fails)**

**** Deferral of Sewer Operation and Maintenance Charges – Accept Massachusetts General Law, Chapter 83, Section 16G –** Move that the Town accept Massachusetts General Law, Chapter 83, Section 16G as amended.

**** Town Board Support - Special Projects:** Move that the Town raise and appropriate \$1,000 for the ongoing expenses of the Acton-Boxborough Cultural Council.

**** Chapter 90 Highway Reimbursement Program:** Move that the Town Manager is authorized to accept Highway funds from all sources and such funds are hereby appropriated for highway purposes.

**** Emergency/Disaster Aid Homeland Defense Appropriations:** Move in the words of the article.

**** Sale of Foreclosed Properties:** Move in the words of the article.

**** Street Acceptance:** Move that the Town accept as public ways the streets listed in the Article, as laid out by the Board of Selectmen, according to the plans on file with the Town Clerk, and authorize the Board of Selectmen to take the fee or easements for drainage, utility, or other purposes where shown on said plans or described in the Order of Layout.

**** Acceptance of Land Gift —**Move in the words of the article.

**** Acceptance of Land Gift - -** Move in the words of the article.

AM ** AMEND LOCAL HISTORIC DISTRICT BYLAW - HOUSEKEEPING

Donald MacKenzie
Town Moderator

LEGEND

One or more of the following symbols may follow an Article number:

<u>Symbol</u>	<u>Description</u>
**	This article is on the Consent Calendar.
#	This article submitted by Citizen Petition

ARTICLE A CHOOSE TOWN OFFICERS (Majority Vote Required)

To choose all necessary Town Officers and Committees and to fix the salaries and compensation of all the elective officers of the Town as follows:

Moderator	\$20.00 per Town Meeting session
Board of Selectmen	Chairman \$750.00 per year
	Member \$650.00 per year

, or take any other action relative thereto.

SUMMARY

This article provides for the election of Trustees of the Elizabeth White Fund, Trustees of the West Acton Fireman's Relief Fund, Trustees of the Goodnow Fund and Trustees of the Citizens' Library Association of West Acton and establishes the salaries of the Town's elected officials.

Selectmen:

Finance Committee:

ARTICLE B HEAR AND ACCEPT REPORTS
(Majority Vote Required)

To see if the Town will accept reports and hear and act upon the report of any committee chosen at any previous Town Meeting that has not already reported, or take any other action relative thereto.

SUMMARY

This article provides for the acceptance of the Annual Town Report, any other reports Town Boards and Committees may need to offer, and to offer for acceptance, any reports of committees chosen at previous Town Meetings.

Selectmen:

Finance Committee:

ARTICLE C ELDERLY TAX RELIEF**
REAUTHORIZE CHAPTER 73 OF THE ACTS OF 1986
(Majority Vote Required)

To see if the Town will vote to continue to accept the provisions of Chapter 73 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988, providing for a 100% increase in certain property tax exemptions, or take any other action relative thereto.

SUMMARY

This is a reauthorization of an ongoing program of tax relief for certain qualifying individuals that was adopted by Town Meeting in 1999. Section 4 of Chapter 73 of the Acts of 1986 authorized Towns that annually accept the provisions of this law to grant additional real estate tax exemptions for qualifying individuals. These additional exemptions are available to the elderly, disabled or veterans who qualify for property tax exemptions under Clauses 17, 17C, 17C½, 17D, 22, 22A, 22B, 22C, 22D, 22E, 37, 37A, 41, 41B and 41C of Section 5 of Chapter 59 of the Massachusetts General Laws. This article will continue to provide additional tax relief to qualified individuals by increasing the exemptions to the maximum allowable under the law.

Direct Inquiries to: Brian McMullen, Assistant Assessor – 264-9622
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE D CLAUSE 41C, SENIOR TAX EXEMPTION OPTIONS
(Majority Vote)

To see if the Town will vote to accept the provisions of Chapter 184 Section 51 of the Acts of 2002, amending General Law Chapter 59, Section 5 (41C), allowing the Town to reduce the eligibility age and increase the gross receipts and would estate limits (within specified parameters) and increase tax exemption amounts up to 100% for senior citizens, or take any other action relative there to.

SUMMARY

Direct Inquiries to: Brian McMullen, Assistant Assessor – 264-9622
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE E COUNCIL ON AGING VAN ENTERPRISE BUDGET**
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$XXX, or any other sum, to operate the Senior Van Service, in accordance with Massachusetts General Laws, Chapter 44, Section 53 F½, Enterprise Fund Law, or take any other action relative thereto.

SUMMARY

This article requests an appropriation to fund van service for use by Senior Citizens and disabled citizens of the Community. An enterprise fund is a fiscal entity with a self-balancing set of accounts that is utilized to account for a governmental service when it is the intent to recover the costs of service, primarily through user charges. Enterprise funds may be supplemented by taxes. This article requests that \$XXX fund balance and fares from the users of the van's service be used for maintaining the service. This 40-hour per week, senior and disabled van service is funded by the Federal Government, State Government and Local Government. Fifty percent of the service is paid by Federal funds, twenty-five percent of the service is paid by the Commonwealth, and the final twenty-five percent is absorbed by the Town of Acton. Fare rates are determined by the Lowell Regional Transit Authority and the revenues will be used to reduce the Town of Acton's share of total costs. If income in any year is in excess of expenses, the excess shall be deposited in a separate fund and used for capital expenditures of the Enterprise or to reduce user fees. Fund status is noted below: (For Budget detail see Municipal Supplement.)

FUND BALANCE 6/30/02	BUDGETED REVENUE FY03	BUDGETED EXPENSE FY03	EST. FUND BALANCE 6/30/03	BUDGETED REVENUE FY04	BUDGETED EXPENSE FY04	EST. FUND BALANCE 6/30/04
\$	\$	\$	\$	\$	\$	\$

Direct Inquiries to: Jean Fleming, Director, Council on Aging - 264-9643
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE F ** NURSING ENTERPRISE BUDGET
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$xxx, or any other sum, to provide Public Health and Visiting Nurse Services, in accordance with Massachusetts General Laws, Chapter 44, Section 53F½, Enterprise Fund Law, or take any other action relative thereto.

SUMMARY

This article requests an appropriation for the Nursing Service Enterprise Fund. An Enterprise Fund permits the Nursing Service to offset its costs with fees for service. These fees are deposited in a separate account and may be expended to pay part or all of the anticipated costs of running the Nursing Service. If income in any year is in excess of expenses, the excess shall be deposited in a separate fund and used for capital expenditures of the Enterprise or to reduce user fees. Fund status is noted below: (For Budget detail see Municipal Supplement.)

FUND BALANCE 6/30/02	BUDGETED REVENUE FY03	BUDGETED EXPENSE FY03	EST. FUND BALANCE 6/30/03	BUDGETED REVENUE FY04	BUDGETED EXPENSE FY04	EST. FUND BALANCE 6/30/04
\$	\$	\$	\$	\$	\$	\$

Direct Inquiries to: Doug Halley, Director of Public Health - 264-9634
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE GSEPTAGE DISPOSAL ENTERPRISE BUDGET**
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$xxx, or any other sum, for the purpose of septage disposal, in accordance with Massachusetts General Laws, Chapter 44, Section 53F½, Enterprise Fund Law, or take any other action relative thereto.

SUMMARY

This article requests that the receipts from septage haulers, licensing of septage haulers, licensing of septic system inspectors, licensing of septic installers, and disposal works construction permit fees be used for the purpose of allowing septage collected within Acton to be taken to a water pollution abatement facility and to maintain the Town of Acton septage waste disposal program. These fees will be deposited in a separate account and may be expended to pay part or all of the anticipated costs of septage waste disposal. If income in any year is in excess of expenses, the excess shall be deposited in a separate fund and used for capital expenditures of the Enterprise or to reduce user fees. Fund status is noted below: (For Budget detail see Municipal Supplement.)

FUND BALANCE 6/30/02	BUDGETED REVENUE FY03	BUDGETED EXPENSE FY03	EST. FUND BALANCE 6/30/03	BUDGETED REVENUE FY04	BUDGETED EXPENSE FY04	EST. FUND BALANCE 6/30/04
\$	\$	\$	\$	\$	\$	\$

Direct Inquiries to: Doug Halley, Director of Public Health - 264-9634
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE H NESWC ENTERPRISE BUDGET
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$xxx, or any other sum, for the purpose of solid waste disposal, in accordance with Massachusetts General Laws, Chapter 44, Section 53F½, Enterprise Fund Law, or take any other action relative thereto.

SUMMARY

This article requests funding for the Town's solid waste disposal and recycling operation. This year's request simply covers day-to-day operations. The Citizens of Acton fund approximately \$XXX (\$XXX from property tax and \$XXX from fees). The remaining XXX% of the requested appropriation (\$XXX) is funded by non-citizen fees and fund balance. Fees will be deposited in a separate account and may be expended to pay part or all of the anticipated costs of solid waste disposal. If income in any year is in excess of expenses, the excess shall be deposited in a separate fund and used for capital expenditures of the enterprise fund or to reduce user fees. It is anticipated that the fund balance will be consumed by future increases in dumping fees to be incurred between now and the end of the NESWC Contract in September 2005. Fund status is noted below: (For Budget detail see Municipal Supplement.)

FUND BALANCE 6/30/02	BUDGETED REVENUE FY03	BUDGETED EXPENSE FY03	EST. FUND BALANCE 6/30/03	BUDGETED REVENUE FY04	BUDGETED EXPENSE FY04	EST. FUND BALANCE 6/30/04
\$	\$	\$	\$	\$	\$	\$

Direct Inquiries to: John Murray, Assistant Town Manager - 264-9612
Selectman Assigned:

Selectmen
Finance Committee

ARTICLE I ** SEWER ENTERPRISE BUDGET
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$XXX, or any other sum, for the purpose of operating and maintaining a sewer collection and treatment facility, in accordance with Massachusetts General Laws, Chapter 44, Section 53F½, Enterprise Fund Law, or take any other action relative thereto.

SUMMARY

The purpose of this article is to provide monies for operation of the municipal sewer system. Sewer charges, private sewer treatment plant fees, connection fees, sewer inspector fees, betterment's, State and Federal aid for Sewers, and any other income derived from the operation of the municipal sewer operation will be deposited in a separate account and may be expended to pay part or all of the anticipated costs of sewerage disposal for the system. If income in any year is in excess of expenses, the excess shall be deposited in a separate fund and used for capital expenditures of the enterprise fund or to reduce user fees.

FUND BALANCE 6/30/02	BUDGETED REVENUE FY03	BUDGETED EXPENSE FY03	EST. FUND BALANCE 6/30/03	BUDGETED REVENUE FY04	BUDGETED EXPENSE FY04	EST. FUND BALANCE 6/30/04
\$	\$	\$	\$	\$	\$	\$

Direct Inquiries to: John Murray, Assistant Town Manager - 264-9612
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE J SECTION 53E½ SELF-FUNDING PROGRAMS**
(Majority Vote Required)

To see if the Town will vote, pursuant to Massachusetts General Laws, Chapter 44, Section 53E½ to continue revolving funds for the Local School System, to be expended by the Superintendent of Schools; and for the Historic District Commission, Building Department, Sealer of Weights and Measures, Health Inspectional Services, and Fire Department Fire Alarm Network, to be expended by the Town Manager, as noted below:

	ESTIMATED REVENUE FY 2004	AUTHORIZED EXPENITURE FY 2004
School Department		
Douglas at Dawn/Dusk		
Merriam Mornings/Afternoons/Summer		
Gates Amazing Mornings/Afternoons		\$
Historic District Commission		\$
Building Department		
(Includes fees for Micro Filming,		\$
Electrical Permits, Plumbing Permits,		
Gas Permits, Sign Licenses		
and Periodic Inspection Fees)		
Sealer of Weights and Measures		
Health Department		
Food Service Inspections		
Hazardous Materials Inspections		
Fire Department		
Fire Alarm Network		

, or take any other action relative thereto.

SUMMARY

This article allows the Schools and Town to fully fund the extended day/summer programs of the Local Schools, Historic District Commission activities, Building Department Inspectional Programs, Sealer of Weights and Measures services, specified ongoing Health Inspectional programs; and the Town-wide Fire Alarm Network from their respective receipts and fund balance. This article removes the cost of these services from the tax base. Fees are deposited in a separate account and may be expended to pay all or part of the anticipated costs of operating each program. If income exceeds costs, the excess is retained for use of the specific program in any subsequent period.

(For Budget Detail, excluding School Programs, please see Municipal Budget Supplement)

All monetary figures are rounded to the nearest dollar.

	Actual Revenue	FY 2001 Actual Expense	Fund Balance	Budgeted Revenue	Budgeted Expense	FY 2002 Est. Fund Balance	Actual* Revenue	Actual* Expense
School Department¹								
Douglas at Dawn/Dusk	\$ 70,764	\$ 44,759	\$22,405	\$ 35,000	\$ 35,000	\$ 22,405	\$ 33,611	\$ 23,837
Merriam Mornings/Afternoons/Summer	\$ 12,850	\$ 12,360	\$ -	\$ 35,000	\$ 35,000	\$ -	\$ -	\$ -
Gates Amazing Mornings/Afternoons	\$ 5,525	\$ 4,669	\$10,914	\$ 35,000	\$ 35,000	\$ 10,914	\$ -	\$ 1,443
Historic District Commission²	\$ 215	\$ 175	\$ 481	\$ 600	\$ 600	\$ 481	\$ 80	\$ -
Building Department²	\$ 95,162	\$ 79,321	\$59,277	\$ 135,100	\$ 135,096	\$ 59,281	\$ 43,809	\$ 116,908
(Includes fees for Micro filming, Electrical Permits, Plumbing Permits, Gas Permits, Sign Licenses and Periodic Inspection Fees)								
Sealer of Weights and Measures²	\$ 8,996	\$ 7,197	\$ 2,727	\$ 7,605	\$ 6,840	\$ 3,492	\$ 4,702	\$ 4,567
Health Department²								
Food Service Inspections	\$ 24,080	\$ 20,007	\$20,364	\$ 22,000	\$ 21,171	\$ 21,193	\$ 14,420	\$ 10,486
Hazardous Materials Inspections	\$ 23,345	\$ 18,584	\$47,692	\$ 21,500	\$ 20,911	\$ 48,281	\$ 1,795	\$ 9,985
Fire Department²								
Fire Alarm Network	\$ 41,320	\$ 52,083	\$48,540	\$ 45,000	\$ 35,030	\$ 58,510	\$ 13,357	\$ 16,500

* As of December 31, 2001

¹ Direct inquiries to: William Ryan, Superintendent of Schools – 264-4700

² Direct inquiries to: John Murray, Assistant Town Manager – 264-9612

Selectman Assigned:

Selectmen:

Finance Committee:

ARTICLE K **PLOWING OF PRIVATE WAYS
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$12,500, or any other sum, to be expended by the Town Manager for the costs associated with the plowing of private ways open to public use as designated by the Board of Selectmen, or take any other action relative thereto.

SUMMARY

In 1986 at a regular town election, the voters of the Town accepted the provisions of MGL Chapter 40 Section 6C, allowing Town Meeting to appropriate money for the removal of snow and ice from such private ways within the Town limits, and open to public use, as may be designated by the Board of Selectmen. If the funds requested in this article are approved, this will be the eighth consecutive year that the Annual Town Meeting has appropriated funds for this purpose. For the 2002-2003 winter season, the Board of Selectmen voted to plow 10 private ways with a total length of 3.59 miles. If this Article is voted affirmatively, the Selectmen will review and revise, if necessary, the criteria established last year, receive petitions from private way residents by mid-September and vote a final plowing list by mid-October 2003. The amount of plowing will be limited to the funds available.

Direct Inquiries to: David F. Abbt, Engineering Administrator, 978-264-9628
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE L BUDGET TRANSFER
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, an amount of money to be used in conjunction with funds appropriated under the current fiscal year's budgets to be used during the current fiscal year, or make any other adjustments to the current fiscal year budgets and appropriations that may be necessary, or take any other action relative thereto.

SUMMARY

This is a standard article that is routinely placed on the Warrant to allow Town Meeting to transfer funds and supplement monies, if necessary, to cover needed expenses in the current fiscal year.

Direct Inquiries to: John Murray, Assistant Town Manager – 264-9612
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE M TOWN OPERATING BUDGET
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$XXX, or any other sum, to defray the necessary expenses of the Departments, Offices and Boards of the Town, exclusive of the school budgets, or take any other action relative thereto.

SUMMARY

This article requests funds for the Fiscal Year 2004 (July 1, 2003-June 30, 2004) Municipal Operating Budget. The Municipal Budget also includes certain school costs. These are primarily the costs of debt service requirements; property, liability and contents insurance on school buildings; pension costs and Workers' Compensation Insurance for school employees, other than teachers and Regional school employees. The standard motion for the Municipal Budget appropriation under this article typically includes the transfer of monies such as Cemetery Trust Funds and Wetland Filing Fees. Budget detail is provided in the Municipal Budget Supplement, available at the Memorial Library, West Acton Citizens' Library, Police Station, Town Hall and at the Polling Places on April 1, 2003. Copies will also be available at Town Meeting.

Direct Inquiries to: Don P. Johnson, Town Manager – 264-9612
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE NTOWN BOARD SUPPORT – SPECIAL PROJECTS**
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$1,000, or any other sum, to be expended by the Town Manager for the ongoing expenses of the Acton-Boxborough Cultural Council for programs in Acton, or take any other action relative thereto.

SUMMARY

The Acton-Boxborough Cultural Council (ABCC) seeks \$1,000 to produce cultural activities and programming in Acton. These funds will help to foster collaborations among local artists and cultural organizations and to address the cultural needs of the Town. This will augment the funds received by the ABCC from the State through the Massachusetts Cultural Council. This request/amount is not included in the Town Manager's Budget.

Direct Inquiries to: Don P. Johnson, Town Manager – 264-9612
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE 0 CHAPTER 90 HIGHWAY REIMBURSEMENT PROGRAM**
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, a sum of money for highway improvements under the authority of the Massachusetts General Laws, Chapter 90, and any other applicable laws, or take any other action relative thereto.

SUMMARY

Each year, the State provides communities with 100% reimbursement for certain highway projects. The State Legislature annually establishes the level of highway improvement funds available to cities and towns under this "Chapter 90" Program. This process is not completed until after Acton's Annual Town Meeting; therefore, we are unable to specify a dollar amount at Town Meeting. State law requires that these State Highway Reimbursement Funds be appropriated by Town Meeting. The purpose of this article is to make that appropriation and allow the town to fully utilize whatever level of appropriation the State may make available during the upcoming fiscal year. If Town Meeting were not to adopt this article, it is conceivable that monies allocated to Acton may be redistributed to State projects or other cities and towns.

Direct Inquiries to: John Murray, Assistant Town Manager – 264-9612
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE P EMERGENCY/DISASTER AND HOMELAND DEFENSE AID APPROPRIATIONS**
(Majority Vote Required)

To see if the Town will vote to appropriate any Federal Government and State Government reimbursement for costs incurred as a result of any declared emergencies or other unusual occurrences during Fiscal Year 2004, or take any other action relative thereto.

SUMMARY

The Federal Emergency Management Agency (FEMA) and Massachusetts Emergency Management Agency (MEMA) reimburse cities and towns for certain costs during declared emergencies or provide planning/preventative monies to cities and towns. In addition, monies may be distributed for Homeland Defense. This article would authorize the Town to expend all such monies.

Direct Inquiries to: John Murray, Assistant Town Manager – 264-9612
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE Q ACTON PUBLIC SCHOOLS BUDGET
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$ _____, or any other sum, to defray the necessary expenses of the Local Schools, or take any other action relative thereto.

SUMMARY

This article requests funds for Fiscal Year 2004 (July 1, 2003-June 30, 2004) for the Town of Acton Local Schools' Operating Budget.

Direct Inquiries to: William Ryan, Superintendent of Schools – 264-4700
Selectman Assigned

Selectmen:
Finance Committee:

**ARTICLE R ACTON LOCAL SCHOOLS CAPITAL IMPROVEMENTS -
HEALTH, SAFETY AND MAINTENANCE
(Majority Vote Required)**

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$, or any other sum, for the purpose of remodeling and making extraordinary repairs to the Conant, Douglas, Gates and Merriam Schools, and for the purchase of equipment, including any architects fees and engineering fees and other costs incidental thereto, or take any other action relative thereto.

SUMMARY

This article covers such required maintenance projects as upgrading classroom heating units at the Conant, Douglas and Merriam Schools, and replacing plumbing fixtures at the Gates School.

Direct Inquiries to: William Ryan, Superintendent of Schools – 264-4700
Selectman Assigned: Walter Foster

Selectmen:
Finance Committee:

Hold until we check with School

ARTICLE S ACTON-BOXBOROUGH REGIONAL SCHOOL ASSESSMENT
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$, or any other sum, to defray the necessary expenses of the Acton-Boxborough Regional School District, or take any other action relative thereto.

SUMMARY

This article requests funds for Fiscal Year 2004 (July 1, 2003-June 30, 2004) for the Acton-Boxborough Regional Schools' Assessment.

Direct Inquiries to: William Ryan, Superintendent of Schools – 264-4700
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE T MINUTEMAN REGIONAL SCHOOL ASSESSMENT
(Majority Vote Required)

To see if the Town will raise and appropriate, or appropriate from available funds, the sum of \$783,968, or any other sum, to defray the necessary expenses of the Minuteman Regional Vocational Technical School District, or take any other action relative thereto.

SUMMARY

This article requests funds for Fiscal Year 2004 (July 1, 2003-June 30, 2004) for the Minuteman Regional Vocational Technical School District Assessment. This assessment, or "bill", voted by the Minuteman School Committee, is governed by the terms of the Minuteman School District Agreement.

Direct Inquiries to: Ron Fitzgerald, Superintendent – (781) 861-6500
Selectman Assigned:

Selectmen
Finance Committee:

ARTICLU ** SALE OF FORECLOSED PROPERTIES
(Majority Vote Required)

To see if the Town will vote to authorize the Board of Selectmen to dispose of foreclosed properties acquired by the Town for nonpayment of taxes in accordance with provisions of the General Laws, or take any other action relative thereto.

SUMMARY

This article grants authority to the Board of Selectmen to sell and convey properties that the Town has obtained via tax foreclosure.

Direct Inquiries to: John Murray, Assistant Town Manager – 264-9612
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE V ** STREET ACCEPTANCE
(Two-thirds Vote Required)

To see if the Town will accept as a public way the following street or any portion thereof, as laid out by the Board of Selectmen according to plans on file with the Town Clerk, and authorize the Board of Selectmen to take the fee or easement in said street and associated parcels of land by eminent domain or otherwise, including easements for drainage, utility, sidewalk or other purposes as shown on said plans or described in the Order of Layout;

In the DUNN'S WAY SUBDIVISION

STACY'S WAY- from the northerly sideline of Barker Road a distance of 1467 feet, more or less, in a generally northerly direction to the northerly sideline of a 70.00 foot radius cul-de-sac, including the cul-de-sac and Parcel B-1 (the emergency access and pedestrian way to Main Street), this being the entire road.

or take any other action relative thereto.

SUMMARY

This is the annual article to accept roads as town ways that have been built to Planning Board standards. In order to create a new road, a developer must first obtain approval of a definitive subdivision plan from the Planning Board. The land developer's contractor then constructs the road according to this plan and the rules and regulations of the Planning Board. The Engineering Department inspects the road during construction to insure compliance with these standards. Upon completion of the road, the developer petitions the Board of Selectmen to start the legal process that will lead to acceptance of the road as a town way. Prior to town meeting, the Selectmen hold a public hearing and adopt an "Order of Layout" containing a legal description of the road. Following town meeting, the Selectmen obtain title to the road by deed or eminent domain. Such roads are built and donated to the Town at no cost; however, the Town will assume future maintenance costs as with any town way. The subdivision process is contained in Massachusetts General Law, Chapter 41, and the layout of town ways is in Chapter 82. Stacy's Way has followed this process, and is now ready for acceptance.

Direct Inquiries to: David F. Abbt, Engineering Administrator, 978-264-9628
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE W MAIN STREET SIDEWALK EASEMENT
(Majority Vote Required)

To see if the Town will vote to accept as a gift from Acton Assisted Living, LLC, a permanent sidewalk easement on Main Street and being shown as "Proposed Sidewalk Easement" on a plan entitled "Plan of Land in Acton, Massachusetts (Middlesex County), For: Acton Assisted Living, LLC" dated February 11, 2002, and recorded at the Middlesex South District Registry of Deeds, Cambridge, MA as Plan No. 1015 of 2002, and as described more fully in an Easement Deed to the Town of Acton dated July 26, 2002, and recorded at said Registry of Deeds on September 24, 2002, as Instrument No. 280, or take any other action relative thereto.

SUMMARY

The donation of this easement is for the existing sidewalk at this location and was required as a condition of approval of the Robbins Brook Condominium Development by the Board of Selectmen.

Direct Inquiries to: Garry Rhodes, Building Commissioner, 978-264-9632
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE X ACCEPTANCE OF LAND GIFT – ESTERBROOK ROAD
(Majority Vote Required)

To see if the Town will vote to accept as a gift from Parcel 1A Esterbrook Road, LLC a parcel of vacant land on Esterbrook Road and shown as Parcel 1A on a plan entitled "Plan of Land in Acton, Massachusetts (Middlesex County)" prepared for Tocci Building Corp. dated January 19, 2001 and recorded at the Middlesex South District Registry of Deeds, Cambridge, MA as Plan No. 91 of 2001, and as more fully described in a deed to the Town of Acton recorded with at said Registry of Deeds on April 3, 2002 as instrument 1319, said parcel is also shown on Map F-4 of the Town Atlas as Parcel 37-5, containing approximately 5.8232 acres, for conservation and recreational purposes; and to see if the Town will also vote to accept as gift from Farm Hill Mall Limited Partnership a permanent access easement to Parcel 1A as shown on a plan entitled "Easement Plan in Acton, Massachusetts (Middlesex County) For Farm Hill Mall Limited Partnership." dated November 21, 2002 and recorded at the Middlesex South District Registry of Deeds, Cambridge, MA on December 13, 2002 as Instrument No. 1107, and described more fully in an Amended and Restated Grant of Easement to the Town of Acton dated November 26, 2002 and recorded at said Registry of Deeds on December 13, 2002 as Instrument No. 1108 ;

or take any other action relative thereto.

SUMMARY

This parcel of land and the access easement are being donated to the Town according to the provisions of the Site Plan Special Permit/Special Use Permit for 145 Great Road (The Brookside Mall) issued by the Board of Selectmen on August 14, 2001. All vehicular traffic along the easement shall access from Great Road and egress to Esterbrook Road.

Direct Inquiries to: Garry Rhodes, Building Commissioner, 978-264-9632
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE Y ACCEPTANCE OF LAND GIFT – GREAT ROAD
(Majority Vote Required)

To see if the Town will vote to accept as a gift from Keystone Associates a parcel of vacant land at 310-320 Great Road more fully described in a deed to the Town of Acton dated November 8, 2002 and shown on Map D-4 of the Town Atlas as Parcel 35, containing approximately two (2) acres, for general municipal purposes, or take any other action relative thereto.

SUMMARY

This small parcel of swampland is being donated to the Town as an alternative to a tax foreclosure. The land is entirely wetland and flood plain zone. At the conclusion of Town Meeting, the deed and a certified copy of the vote under this article will be recorded at the Middlesex South District Registry of Deeds in Cambridge.

Direct Inquiries to: John Murray, Tax Collector, 978-264-9612
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE Z ACCEPTANCE OF LAND GIFT – RIVER STREET
(Majority Vote Required)

To see if the Town will vote to accept as a gift from Linda G. and Sally T. Johnson a parcel of vacant land at the corner of River Street and Parker Street and shown as Lot 238A – 2.3917 Acres on a plan entitled “Compiled Plan of Land in Acton, Massachusetts (Middlesex County), For: Woodard & Curran, dated September 14, 1999”, and recorded in the Middlesex South District Registry of Deeds, Cambridge, MA as Plan 393 (Sheet 2 of 2) of 2000, said parcel is also shown on Map H-3 of the Town Atlas as Parcel 238, for conservation purposes, or take any other action relative thereto.

SUMMARY

This land is being donated to the Town for conservation purposes (preservation of open space and wildlife habitat), however, this parcel surrounds the smaller parcel of land taken by the Town for the new sewer pump station on River Street, and limited uses related to the operation of the pump station and the related sewer facilities will also be allowed on this parcel.

Direct Inquiries to: Doug Halley, Health Director, 978-264-9634
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE AA MAIN STREET RECREATION EASEMENT
(Majority Vote Required)

To see if the Town will vote to accept as a gift from Acton Garage Storage, Inc, a permanent recreation easement at 1009-1015 Main Street and being shown as "Proposed 225' Recreation Easement" on a plan entitled "Plan of Land in Acton & Carlisle, Massachusetts (Middlesex County), For: Fenton" dated May 30, 2002, and recorded at the Middlesex South District Registry of Deeds, Cambridge, MA as Plan No. 574 of 2002, and as described more fully in a Grant of Easement to the Town of Acton dated June 4, 2002, and recorded at said Registry of Deeds on June 14, 2002, as Instrument No. 67, or take any other action relative thereto.

SUMMARY

The donation of this easement is for recreation purposes and will be used to provide a parking area and trail connection to the future Bruce Freeman Bike Path along the former Penn Central Railroad in North Acton.

Direct Inquiries to: Tom Tidman, Natural Resources Director, 978-264-9631
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE AB SKATE PARK LAND – HAYWARD ROAD

(Majority Vote Required)

To see if the Town will vote to accept from the Commonwealth of Massachusetts the conveyance of two parcels of vacant land on Hayward Road and shown as Parcel SR-1, 1.15 Acres and SR-2, 0.43 Acres on a plan entitled "The Commonwealth of Massachusetts, Plan of Land in the Town of Acton, (Middlesex County)", dated October 31, 2002, to be recorded in the Middlesex South District Registry of Deeds, Cambridge, MA, said parcels are also shown on Map F-3 of the Town Atlas as Parcel 16 and 16-1, for open space and recreational purposes, or take any other action relative thereto.

SUMMARY

This land is being conveyed to the Town as the location for construction of the T. J. O'Grady Memorial Skate Park approved by the Town under Article 16 of the 2001 Annual Town Meeting. A small portion of the funds appropriated under this Article will be used to pay the \$2,500 cost of this acquisition.

Direct inquiries to: Tom Tidman, Director of Natural Resources, 978-264-9631
Selectman assigned:

Selectmen:

Finance Committee:

ARTICLE AC HARRIS STREET VILLAGE SIDEWALK EASEMENT
(Majority Vote Required)

To see if the Town will vote to accept as a gift from Harris Street Village, LLC, a permanent sidewalk easement at the corner of Great Road and Harris Street being shown as "Sidewalk Easement 135 S.F." on a plan entitled "Harris Street Village, a Major Affordable Housing Development, Acton, Massachusetts (Middlesex County), Lot Layout Plan, For: Northwest Structures, Inc.", dated August 7, 1998, and recorded at the Middlesex South District Registry of Deeds, Cambridge, MA as Plan No. 810 of 1999, and as described more fully in a Grant of Easement to the Town of Acton dated May 14, 2002, and recorded at said Registry of Deeds on May 22, 2002, as Instrument No. 657, or take any other action relative thereto.

SUMMARY

The donation of this easement is for the existing sidewalk at this location that was required as a condition of approval of the Harris Street Village Development by the Acton Planning Board.

Direct Inquiries to: Roland Bartl, Town Planner, 978-264-9636
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE AD ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION (EDIC)
(Majority Vote Required)

To see if the Town will vote to declare a need for an Economic Development and Industrial Corporation, and adopt Chapter 135 of the Acts of 2001, an act establishing the Acton Economic Development and Industrial Corporation, or take any action relative thereto.

SUMMARY

This article asks the Town to declare a need for an Economic Development and Industrial Corporation (EDIC). It was submitted by the 2000 Annual Town Meeting and passed by the Legislature in November 2001. The purpose of the EDIC is to mitigate the residential tax burden and help insure the type and scale of commercial development the Town wants, consistent with the Master Plan, by developing commercial and industrial properties within the Town. The type and extent of this development is governed by the EDIC's Economic Development Plan. The next step is to write that plan, which must be approved by a 2/3 vote at a subsequent Town Meeting before the EDIC can begin its mission. The full text of the legislation follows:

Chapter 135 of the Acts of 2001

AN ACT ESTABLISHING THE ACTON ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The general court finds that decadent or blighted open areas exist in certain portions of the town of Acton and that each such area constitutes a serious and growing menace, injurious and inimical to the safety, health, morals and welfare of the residents of the town; that each such area constitutes an economic liability, substantially, impairs or arrests the sound growth of the town, and retards the economic well-being of the commonwealth; that each decreases the value of private investments and threatens the sources of public revenue; that redevelopment of each such area in accordance with an economic development plan for the elimination of substandard conditions and the prevention of their recurrence is necessary to retain existing industries, commerce, and businesses, and attract new industries, commerce, and business and promote the sound economic growth of the town; that the menace of such decadent or blighted open areas is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aid herein provided; that the acquisition of property for the purpose of eliminating decadent, substandard, or blighted open conditions therein, preventing recurrence of such conditions in the area, the removal of structures and improvements of sites for manufacturing, industrial, commercial and business uses, the disposition of the property for redevelopment incidental to the foregoing, the exercise of powers by the corporation and any assistance which may be given by the town, or any other public body in connection therewith are public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the acquisition, planning, clearance, development, rehabilitation or rebuilding of such decadent and blighted open areas for industrial, manufacturing, commercial and business purposes, are public uses and benefits for which private property may be acquired by eminent domain or regulated by wholesome and

reasonable orders, laws and directions and for which public funds may be expended for the good and welfare of the town and of this commonwealth.

The general court further finds that there exists in the town a condition of substantial underemployment which causes hardship to many individuals and families, wastes vital human resources, increases the public assistance burdens, impairs the security of family life, impedes the economic and physical development of the town and adversely affects the welfare and prosperity of the people; that underemployment has been caused in part by industrial companies moving from the town; that various existing industrial and manufacturing facilities within the town are obsolete and inefficient; that such facilities are underutilized or vacated, thereby creating lack of employment opportunities that the manufacturing and industrial sector of the economy, and commercial and business enterprises, provide the best immediate opportunities for better jobs at higher wages for inhabitants of the town; that new industrial and manufacturing sites, and sites for commercial and business enterprises are required to attract and house new industries and businesses and to retain existing industries in need of expansion space; that the unaided efforts of private enterprise have not provided and cannot provide the necessary industrial, commercial and business sites within the town due to problems encountered in the assembly of suitable building sites, the provision of adequate public services, the unavailability of sufficient private capital for development, and the inability of private enterprise alone to plan, finance and coordinate industrial, commercial and business development projects.

The general court further finds that there exists considerable open and underutilized land, in large part brownfields land, suitable for industrial, commercial and business development; an adjacent blighted area; that there is substantial underemployment that exists in the town of Acton due to corporate mergers and downsizing of the major employer in the town of Acton; that there has been a significant reduction in commercial and industrial property tax revenue share; that there exists a substantial number of home businesses that have moved out of the town of Acton when they have outgrown their space within the home due to lack of available industrial, commercial and business building space, and that the town of Acton is experiencing increased formidable competition from nearby areas of rapid economic growth.

SECTION 2. As used in this act, the following words shall, unless a different meaning clearly appears from the context, have the following meanings:-

"Corporation", the Acton Economic Development and Industrial Corporation established by section 3.

"Cost of a project", all costs, whether incurred prior to or after the issue of bonds or notes hereunder, of acquisition, site development, construction, improvement, enlargement, reconstruction, alteration, machinery, equipment, furnishings, demolition or removal of existing buildings or structures, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during the carrying out of any project, interest for up to 2 years after completion or estimate completion date of any project, planning, engineering and legal service, administrative expense, the funding of notes issued for capital purposes, such reserve for debt service or other capital or current expenses as may be required by a trust agreement or resolution securing notes or bonds, and all other expenses incidental to the determination of the feasibility of any project or to carrying out the project or to placing the project in operation.

"Economic development area", any blighted open area or any decadent area, as respectively defined in section 1 of chapter 121B of the General Laws, which is located in the town of Acton and is zoned for general or restricted manufacturing uses or for general industrial uses whether restricted or not, or for commercial and business uses, or any open and underutilized land which is

suitably zoned for the kinds of activities identified herein, including, but not limited to, research and development, commercial, light industrial and business uses and within which there are not more than 45 dwelling units.

"Economic development plan", a detailed plan, as it may be approved from time to time by town meeting as provided in this act, for 1 or more economic development projects within an economic development area, which plan shall be consistent with local objectives respecting appropriate land uses, and shall be sufficiently complete to indicate the boundaries of the area, land acquisition, demolition, removal, and rehabilitation of structures, and such development, redevelopment and general public improvements as may be proposed to be carried out within the area, zoning and planning changes, if any, and proposed land uses, maximum densities and building requirements; but, without specific approval by town meeting no economic development plan shall propose a zoning change.

"Economic development project", (1) a project to be undertaken in accordance with an economic development plan for acquisition by the corporation of land and the improvements thereon, if any, within an economic development area covered by an economic development plan and for clearance and development of the land so acquired; or (2) a project for the rehabilitation or conservation of an economic development area, or for the demolition, removal, or rehabilitation of improvements on land within an economic development area whenever necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, or eliminate obsolete or other uses detrimental to the public welfare; or (3) for 1 or more qualifying industrial, commercial and, business uses; or (4) a project involving any combination of the foregoing types of project. An economic development project may include improvements necessary for carrying out the objectives of the economic development project, together with site improvements necessary for the preparation of any site for uses in accordance with the economic development plan, and making any land or improvements acquired in the area of the project available for redevelopment or rehabilitation by private enterprise, including sale, initial leasing or retention by the corporation for industrial, commercial, business or manufacturing uses contemplated by the economic development plan. An economic development project may also include the construction by the corporation of any of the buildings, structures or other facilities for industrial, commercial, business, or manufacturing uses contemplated by the economic development plan and the repair, removal or rehabilitation by the corporation of any of the buildings, structures or other facilities located in the area covered by the economic development plan which, under the plan, are to be repaired, moved or rehabilitated.

"Pollution control facilities", facilities for the prevention, avoidance, reduction, control, abatement or elimination of pollution of air or waters by industrial, commercial or business establishments by any means.

"Selectmen", the board of selectmen of the town of Acton.

"Town", the town of Acton.

"Town manager", the town manager of the town of Acton.

"Town meeting", town meeting of the town of Acton acting in a lawfully convened session.

SECTION 3. The town of Acton may organize an economic development corporation to be known as the Acton Economic Development and Industrial Corporation, a public body politic and corporate. No such corporation, however, shall be organized, transact any business, employ any personnel or exercise any powers until the town, at an annual town meeting or a special town meeting called for the purpose, shall by majority vote declare a need for such a corporation. There shall be 7 members of the board of directors of the corporation who shall be appointed by the selectmen. At least 1 member shall be experienced in industrial or commercial development, 1

in financial matters, 1 in real estate matters, 1 in municipal government, and 1 member shall be from the community at large. The appointing authority shall designate 1 of the 7 members as chairman and another as vice-chairman. Each of the 7 members shall be sworn to the faithful performance of his official duties as a director of the corporation. A majority of the 7 directors shall constitute a quorum for the transaction of any business, but the action of a majority of the entire board shall be necessary for any transaction. For the purposes of section 11A of chapter 30A of the General Laws, the corporation shall be deemed to be an authority established by the general court to serve a public purpose in the commonwealth.

Of the members of the corporation first appointed, 2 shall be appointed to serve for 1 year from the first day of July in the current year, 2 for 2 years from said date, and 3 for 3 years from said date. Upon the expiration of the term of office of any such member, or of any subsequent member, his successor shall be appointed in like manner for a term of 3 years. In the event of a vacancy in the office of a member, his successor shall be appointed in like manner to serve for the unexpired term. Unless reappointed, no member of the corporation shall hold office after the expiration of his term; and the appointment of a successor to any person whose term has expired shall be for the remainder of the term which would have begun at such expiration if the successor had then been appointed.

Any member may be removed by the board of selectmen for malfeasance, misfeasance, or willful neglect of duty, but only after reasonable notice and a public hearing, unless the same are in writing expressly waived. For purposes of chapter 268A of the General Laws, the members of the corporation shall be deemed to be special municipal employees.

Before the issuance of any bonds under the provisions of this act, each member of the corporation shall execute a surety bond with a surety company authorized to transact business in this commonwealth as surety, in the penal sum of \$50,000 conditioned upon the faithful performance of the duties of his office, each such surety bond to be approved by the legal counsel of the town and filed in the office of the state secretary. The members of the corporation shall receive no compensation for the performance of their duties hereunder, but each member shall be reimbursed for expenses actually incurred in the performance of his duties. Every such reimbursement shall be open to public inspection from and after the requisition therefore.

SECTION 4. The directors of the corporation shall adopt a corporate seal for the corporation, and designate the custodian thereof; may from time to time appoint and at pleasure remove a clerk, a treasurer or such other officers of the corporation as they may deem necessary, and may determine their duties and their compensation, which shall be paid by the corporation; shall cause at all times accurate accounts to be kept of all receipts and expenditures of the funds of the corporation; and shall make a report annually in December to the board of selectmen, containing an abstract of such accounts and detailed information of all receipts and expenditures, including prices paid for land purchased or taken and any buildings constructed thereon, contracts for construction of facilities and for the leasing thereof, and such other detailed information as may be deemed helpful. The office of treasurer and clerk may be held by the same person. The corporation shall cause an audit of its books and accounts to be made at least once in each fiscal year by certified public accountants and the cost thereof shall be treated as an item of current expense. Except as otherwise provided in this act, the corporation shall have full power to exercise care of its property and the management of its business and affairs, and to sell and convey any real estate or other property not needed for its business or affairs, by deed or other instrument sealed with the corporate seal, signed and acknowledged by a majority of the board of directors or in like manner to authorize such sale and conveyance by any of its officers or agents. The treasurer shall give bond for the faithful performance of his duties, with a surety company

authorized to do business in this commonwealth as surety, in such sum as the said board may determine, the premium therefor to be paid by the corporation. Neither chapter 31 of the General Laws nor any rule made thereunder shall apply to any person employed or engaged by the corporation under this act.

SECTION 5. (a) The corporation may:

- (1) sue and be sued in its own name, and plead and be impleaded;
- (2) adopt by-laws for the regulation of its affairs and the conduct of its business, and to alter the same at its pleasure;
- (3) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and to employ consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts and attorneys and such other employees, agents and consultants as may be necessary in its judgment, and to fix their compensation;
- (4) receive and accept from any federal agency, the commonwealth or the town grants, loans or advances for or in aid of an economic development project or projects and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants, loans, advances and contributions may be made. The town may borrow outside its debt limits to obtain money for loan to the corporation, or within its debt limits to obtain money for grants to a corporation;
- (5) borrow money, and, from time to time, to make, accept, endorse, execute, and issue bonds, debentures, promissory notes, bills of exchange, and other obligations of the corporation, for moneys borrowed or in payment for property acquired or for any of the other purposes of the corporation, and to secure the payment of such obligations by mortgage, pledge, deed, indenture, agreement, or other instrument of trust, or by other lien upon, assignment of, or agreement in regard to all or any part of the property, rights, or privileges of the corporation;
- (6) issue revenue bonds of the corporation, payable solely from revenues, for the purpose of paying all or any part of the cost of a project or projects, except that the town may, upon request by the corporation, pledge its full faith and credit to the solvency of a corporation;
- (7) invest any funds not required for immediate use or disbursement in certificates of deposit or in obligations of the government of the United States or in obligations the payment of the principal of, and interest on, which is guaranteed by the government of the United States;
- (8) provide such advisory services and technical assistance as may be necessary or desirable to carry out the purposes of this act;
- (9) prepare or cause to be prepared plans, designs, drawings, specifications and estimates of cost for the construction, reconstruction, development, redevelopment, rehabilitation, remodeling, alteration or repair of economic development projects and from time to time modify such plans, designs, drawings, specifications and estimates;
- (10) finance pollution control facilities in the same manner provided by this act for economic development projects, in which event all provisions of this act which are applicable to economic development projects apply to the pollution control facilities, insofar as such provisions are apt, except as otherwise provided;
- (11) subject to the approval of the town meeting, designate areas of the town as economic development areas;
- (12) acquire and hold by bequest, devise, grant, gift, purchase, exchange, lease, judicial order or decree, or otherwise, for any of its objects and purposes, any property, either real or personal, or any interest therein; and without limiting the generality of the foregoing, to acquire by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the

exercise of the power of eminent domain following a public hearing and an affirmative 2/3 vote at an annual town meeting or a special town meeting called for the purpose, with the provisions of chapter 79 or chapter 80A of the General Laws insofar as such provisions may be applicable, such private lands, or any interests therein, as it may deem necessary for carrying out the provisions of this act or for providing for the relocation of persons and businesses displaced as a result of carrying out an economic development plan. Section 40 of said chapter 79 shall apply to any taking by the corporation, except that the security therein required shall be deposited with the treasurer of the town and shall be in an amount at least 25 per cent higher than the aggregate average assessed valuations in the 3 previous calendar years of all real estate to be taken by eminent domain. Prior to approval of an economic development plan by the town after such a public hearing and in the manner described in this subsection, the date as of which the value of such lands shall be determined for eminent domain purposes shall be the date on which the said economic development plan was first submitted to town meeting;

(13) make relocation payments to persons and businesses displaced as a result of carrying out an economic development plan, including such payments on a pro tanto basis;

(14) procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;

(15) clear and improve property acquired by it, and to engage in or contract for the construction, reconstruction, development, redevelopment, rehabilitation, remodeling, alteration or repair thereof;

(16) arrange or contract with the town for the planning, replanning, opening, grading or closing of streets, roads, alleys or other places or for the furnishing of facilities or for the acquisition by the town of property or property rights or for the furnishing of property or services in connection with a project or projects;

(17) sell, convey, mortgage, lease, transfer option, exchange or otherwise dispose of, any property, either real or personal, or any interest therein, as the objects and purposes of the corporation may require, subject to such limitations as may be prescribed by law;

(18) loan on mortgages, including purchase money mortgages, on real estate and personal property within economic development areas, to foreclose the same when in default, and to bid for and purchase property at any foreclosure or other sale; and in such event, to deal with such property in such manner as may be necessary or desirable to protect the interests of the corporation therein;

(19) manage any project whether owned or leased by the corporation and to enter into agreements with the commonwealth or the town or any agency or instrumentality thereof or with any person, firm, partnership or corporation either public or private for the purpose of causing any project to be managed;

(20) act with respect to 1 or more projects as a corporation organized under section 3 or section 18B of chapter 121A of the General Laws; provided that the accounts for each project shall be kept separately, and the income of 1 project shall not be expended upon or for the benefit of another project;

(21) borrow money for the purposes of aiding in the construction of equipment required by the commonwealth or United States to abate air or water pollution;

(22) apply to the federal government or to the commonwealth for economic development assistance grants to meet in part the approved economic development projects, to receive and administer such grants, to contract with the commonwealth for financial assistance, to apply for and receive advances for the estimated costs of surveys and plans and administrative expenses in preparation for economic development projects, and to apply for, receive and administer community development action grants, all to the same extent and subject to the same terms and

conditions as an urban renewal agency pursuant to sections 53 to 57A, inclusive, of chapter 121B of the General Laws; and

(23) do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(b) The corporation shall pay the reasonable relocation costs of persons and businesses displaced as a result of carrying out an economic development plan as authorized by clause 13 of subsection (a); but the corporation shall not be required to pay or contribute to the payment of the costs of any relocatee in excess of \$25,000.

SECTION 6. (a) No economic development project shall be undertaken until (1) a public hearing relating to the economic development plan covering such project has been held by the corporation after due notice; (2) the economic development plan has been approved by town by an affirmative 2/3 vote of an annual town meeting or a special town meeting called for the purpose. If no economic development project covered by an economic development plan is commenced within 7 years after the approval of the plan, the approval of the plan shall lapse.

(b) Every economic development plan submitted to the town for approval under this act (1) shall require that every person occupying the whole or any part of the economic development area covered by the plan during the period of 40 years after the approval of the plan shall make every reasonable effort, in employing persons in his business, to give to the fullest practicable extent preference to residents of the town, and (2) shall be accompanied by a report on the plan by the planning board of the town to whom the plan shall have been submitted before its submission to the town by a statement of the proposed method for financing each project covered by the plan, by a comprehensive relocation plan and by other information as the corporation deems advisable.

(c) Notice of the public hearing required by subsection (a) shall be given by the corporation to (1) such persons, groups and organizations as have requested in writing that such notice be given them, (2) any agency, whether of the town or of the commonwealth, likely in the judgment of the corporation to have an actual or potential interest in the economic development plan, (3) the senator for every senatorial district of the commonwealth, and the representative for every representative district thereof, within which the economic development area or any part thereof lies, and (4) each community group supported in whole or in part by public funds, whose territory covers all or part of the economic development area. In the course of preparing an economic development plan, the corporation shall consult with each of the aforesaid so far as in the judgment of the corporation it is practicable.

(d) If an economic development plan is approved by town meeting, the corporation shall have the powers and duties imposed by this act to undertake and carry out the economic development projects covered by such plan.

SECTION 7. Except as otherwise provided in this act, rents and charges for services or facilities furnished or supplied by the corporation shall not be subject to supervision or regulation by any department, division, commission, board, bureau or agency of the commonwealth or the town, and, if derived from a project in connection with which revenue bonds have been issued, shall, with all other revenues derived from the project, except the part thereof necessary to pay the cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of the bonds or in the trust agreement, but including the part thereof as may be necessary to provide reserves for the payment of the principal of and the interest on the revenue bonds as may be provided for in the resolution or trust agreement, and including also the proceeds of any and all sales by the corporation of property within the project area, be set aside at regular intervals as provided for in resolution or trust agreement, in a sinking fund which is hereby pledged to and charged with the payment of (1) the interest upon the bonds

as the interest shall fall due, (2) the principal of the bonds as the same shall fall due, (3) the necessary charges of paying agents for paying principal and interest, and (4) the redemption price or the purchase price of bonds retired by call or purchase as therein provided.

SECTION 8. The corporation shall be liable in contract or in tort in the same manner as a private corporation. The directors, employees, officers and agents of the corporation shall not be liable as such on its contracts or for torts not committed or directly authorized by them. The property or funds of the corporation shall not be subject to attachment or to levy and sale on execution, but if the corporation refuses to pay a judgment entered against it in any court of competent jurisdiction, the superior court, sitting within and for the county in which the corporation is situated, may, by writ of mandamus, direct the treasurer of the agency to pay the judgment. The real estate of the corporation shall not be subject to liens under chapter 254 of the General Laws but sections 28 and 29 of chapter 149 of the General Laws shall be applicable to any construction work by the corporation.

SECTION 9. The real estate and tangible personal property of the corporation shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments; but in lieu of taxes, betterments and special assessments, the town may determine a sum to be paid to it annually in any year or period of years, the sum to be in any year not in excess of the amount that would be levied at the then current tax rate upon the average of the assessed value of the real estate, including buildings and other structures, for the 3 years preceding the year of acquisition thereof, the valuation for each year being reduced by all abatements thereon.

The town may agree with the corporation upon the payments to be made, or the corporation may make and the town may accept such payments, the amount of which shall not in either case be subject to the foregoing limitation.

Nothing in this act shall be construed to prevent the taxation to the same extent and in the same manner as other real estate is taxed, of real estate acquired by the corporation for an economic development project and sold by it, or the taxation to the same extent and in the same manner as real estate of the commonwealth is taxed, of real estate so acquired by the corporation and leased by it; provided, however, that real estate so acquired by the corporation and sold or leased to an urban redevelopment corporation or other entity operating under chapter 121A of the General Laws or to an insurance company or savings bank or group of savings banks operating under said chapter, shall be taxed as provided in said chapter and not otherwise.

The corporation and the debentures, revenue bonds and revenue refunding bonds issued under this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free from taxation by the commonwealth or any subdivision thereof.

SECTION 10. To provide funds for the general purposes of the corporation, including working capital, the corporation may from time to time issue debentures; provided, however, that such debentures outstanding at any one time shall not exceed \$5,000,000 unless specifically approved. Such debentures unless otherwise authorized by law shall not be deemed to constitute a debt of the commonwealth or of the town or a pledge of the faith and credit of the commonwealth or of the town and shall be subordinated to all other obligations of the corporation and shall be payable at such time or times and in such installments, if any, as the corporation shall determine, but solely out of the net assets of the corporation; and the holders thereof shall be entitled to interest thereon but only out of the net earnings of the corporation, and in no event at a rate higher than the rate specified therein.

Such debentures may be secured by a trust agreement by and between the corporation and a corporate trustee, which shall be located within the commonwealth and shall be a trust company or bank having the powers of a trust company. The trust agreement shall contain provisions for protecting and enforcing the rights and remedies of the debenture holders as may be reasonable and proper and not in violation of law. It shall be lawful for any bank or trust company incorporated under the laws of the commonwealth which may act as depository under the trust agreement to furnish such indemnifying bonds or to pledge such securities as may be required by the corporation. The trust agreement shall set forth the rights and remedies of the debenture holders and of the trustee, and may restrict the individual right of action by debenture holders. In addition to the foregoing, the trust agreement may contain such other provisions as the corporation may deem reasonable and proper for the security of the debenture holders. All expenses incurred in carrying out the trust agreement may be treated as an item of current expense.

SECTION 11. The town may raise and appropriate or may borrow, or may agree with the corporation or with the federal government or the commonwealth to raise and appropriate or to borrow, in aid of the corporation, sums necessary to carry out the purposes and powers of the corporation including defraying part of the development, acquisition and operating costs of any project. Indebtedness of the town authorized under this section shall be outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws and shall be payable within 20 years and otherwise subject to sections 16 to 27, inclusive, of said chapter 44; provided, however, that the total amount of indebtedness of the town, outstanding at any one time under this section and clauses (1), (2), and (4) of section 20 of chapter 121B of the General Laws shall not exceed 5 per cent of the town equalized valuation as defined in section 1 of said chapter 44. Indebtedness incurred under this act shall also be subject to approval under section 22 of said chapter 121B of the General Laws in like manner as indebtedness incurred under said section 20.

SECTION 12. The corporation may provide by resolution, one time or from time to time, for the issuance of revenue bonds of the corporation for the purposes of paying all or any part of the cost of a project or projects. The principal of and interest on the bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rates, and shall mature at such time or times not exceeding 40 years from their date or dates, as determined by the corporation, and may be made redeemable before maturity, at the option of the corporation, at such price or prices and under such terms and conditions as fixed by the corporation prior to the issuance of the bonds. The corporation shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within the commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until the delivery. The bonds may be issued in coupon or registered form or both, as the corporation may determine and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest. The corporation may sell the bonds in a manner, either at public or at private sale, and for a price, as it determines to be for the best interests of the corporation.

The proceeds of the bonds shall be used solely for the payment of the cost of the project or projects, and shall be disbursed in a manner and under restrictions, if any, as the corporation may provide. Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive

bonds when the bonds have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Revenue bonds may be issued under the provisions of this act subject only to those proceedings, conditions or things which are specifically required by this act.

The corporation may provide by resolution for issuance of revenue refunding bonds of the corporation for the purpose of refunding any revenue bonds then outstanding and issued under this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, and, if deemed advisable by the corporation, for the additional purpose of constructing or reconstructing any extensions or improvements of the project. The issue of the bonds, the maturities, and other details thereof, the rights of the holders thereof, and the duties of the corporation in respect of the same may be applicable.

While any bonds issued by the corporation remain outstanding, the powers, duties or existence of the corporation shall not be diminished or impaired in any way that will affect adversely the interests and rights of the holders of such bonds.

Revenue and revenue refunding bonds issued under this section, unless otherwise authorized by law, shall not be deemed to constitute a debt of the commonwealth or of the town, or a pledge of the faith and credit of the commonwealth or of the town, but the bonds shall be payable solely from the funds herein provided therefor from revenues. In the event that the corporation, or town or commonwealth is not obliged to pay the revenue and revenue refunding bonds, then, and in that event, all the revenue and revenue refunding bonds shall contain on the face thereof a statement to the effect that neither the corporation nor the commonwealth nor the town shall be obliged to pay the same or the interest thereon except from revenues and that neither the faith and credit nor taxing power of the commonwealth or of the town is pledged to the payment of the principal of or the interest on the bonds.

All revenue and revenue refunding bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments as defined in section 3-104 of chapter 106 of the General Laws.

SECTION 13. In the discretion of the corporation such revenue bonds or revenue refunding bonds may be secured by a trust agreement by and between the corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the commonwealth. The trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage any project or part thereof.

Either the resolution providing for the issuance of bonds or such trust agreement may contain provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including without limiting the generality of the foregoing provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on, the corporation in relation to the acquisition, construction, improvement, enlargement, alteration, equipping, furnishing, maintenance, operation, repair, insurance and disposition of property, the custody, safeguarding, investment, and application of moneys, the use of any surplus bond or note proceeds and the establishment of reserves. The resolution or trust agreement may also contain covenants by the corporation in relation to, among other things: (1) the establishment, revision and collection of rents and charges for services of facilities furnished or supplied by the corporation as shall provide revenues sufficient with other revenues of the project, if any, to pay (i) the cost of maintaining, repairing and operating the project and of making renewals and replacements in connection therewith, (ii) the principal of and the interest on the revenue bonds as the same shall become due and payable, (iii) payments in lieu of taxes, betterment and special assessments, and

(iv) reserves for all such purposes; (2) the purpose or purposes for which the proceeds of the sale of the bonds shall be applied and the use and disposition thereof; (3) the use and disposition of the gross revenues of the corporation from the project, any additions thereto and extensions and improvements thereof, including the creation and maintenance of funds for working capital and for renewals and replacements to the project; (4) the amount, if any, of additional revenue bonds payable from the revenues of the project and the limitations, terms and conditions on which such additional revenue bonds may be issued; and (5) the operation, maintenance, management, accounting and auditing of the project and of the income and revenues of the corporation. It shall be lawful for any bank or trust company incorporated under the laws of the commonwealth to act as depository of the proceeds of bonds or of revenues and to furnish the indemnifying bonds or to pledge such securities as may be required by the corporation. The trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, the trust agreement may contain other provisions as the corporation deems reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the trust agreement may be treated as a part of the cost of the operation of the project. The pledge by any such trust agreement or resolution shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and then held or thereafter received by the corporation shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act; and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether the parties have notice thereof. Neither the resolution nor any trust agreement by which pledge is created need be filed or recorded except in the records of the corporation, and no filing need be made under chapter 106 of the General Laws.

SECTION 14. Revenue bonds and revenue refunding bonds issued under the provisions of this act are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments and within the limits set by section 14 of chapter 167E of the General Laws, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them; and the bonds are hereby made obligations which may properly and legally be made eligible for the investment of savings deposits and the income thereof in the manner provided by section 2 of chapter 167F of the General Laws. The bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or other obligations of the commonwealth is now or may hereafter be authorized by law.

SECTION 15. Any holder of bonds or debentures issued under this act or of any coupons appertaining thereto, and the trustee, except to the extent the rights herein given may be restricted by the trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under the trust agreement, and may enforce and compel the performance of all duties required by this act or by the trust agreement, to be performed by the corporation or by any officer thereof.

SECTION 16. Insofar as this act is inconsistent with the provisions of any other law, general or special, excluding any state or the town building code and the town zoning bylaw, this act shall be controlling.

SECTION 17. This act, being necessary for the welfare of the town and its inhabitants, shall be liberally construed to effect the purpose thereof.

SECTION 18. If the town shall modify its charter, or if it shall adopt a new charter, then without amendment of this act, the provisions of this act which refer to specific town officials or town bodies shall be understood, upon a charter change, to refer to those who under such change exercise the same or equivalent functions.

SECTION 19. This act shall take effect upon its passage.

Approved November 17, 2001.

Direct Inquiries to: Roland Bartl, AICP, Town Planner - 264.9636
Selectman Assigned:

Selectmen:
Finance Committee:
Planning Board:

**ARTICLE AE PLANNED CONSERVATION RESIDENTIAL COMMUNITY (PCRC)
AMENDMENTS
(2/3 vote required)**

To see if the Town will vote to amend the zoning bylaw by deleting the present section 9 and replacing it with the following new section 9:

[Notes in italic print are not part of the Article but are intended for explanation only.]

SECTION 9.

PLANNED CONSERVATION RESIDENTIAL COMMUNITY (PCRC)

- 9.1** The primary purpose of the Planned Conservation Residential Community (PCRC) is to allow residential development that encourages the preservation of open space, and thus allows within it the preservation of significant land, water, historic, archeological and natural resources, in a manner consistent with the Master Plan and the Open Space and Recreation Plan.

The secondary purpose is to facilitate and encourage the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner than in a standard subdivision.

[Note - section 9.1 presently reads as follows:

9.1 Purpose – The purpose of the Planned Conservation Residential Community is to allow residential development which encourages:

- 1) the preservation of significant land and water resources and natural areas in the Town;*
- 2) the preservation of significant historic or archeological resources and areas;*
- 3) the maintenance of Acton's New England town character as a suburban residential community, while encouraging a greater mixture of housing types and more energy efficient and cost effective residential development; and*
- 4) the development of land in harmony with its natural features, the existing and probable future USE of adjacent land, and consistent with the objectives of the Zoning Bylaw.]*

- 9.2** **Special Permit** – The Planning Board may grant a special permit for the development and construction of a PCRC on all land and parcels previously incorporated into a PCRC zoning district, as well as in the R-2, R-4, R-8/4, R-8, R-10/8 and R-10 Districts in accordance with this Section and M.G.L. ch. 40A, s.9.

[No change.]

- 9.3** **Contents of Application for a PCRC Special Permit** – The application for a PCRC Special Permit shall be accompanied by a "PCRC Site Plan", showing the information required by the Rules and Regulations for PCRCs. The information shall include but not be limited to: the topography; soil characteristics as shown on the Soil Conservation Service Maps; wetlands as defined by M.G.L. Chapter 131, Section 40; vernal pools, riverfront areas, buffer zones and setbacks as defined in Chapter F of the Bylaws of the Town of Acton - Wetland Protection; Flood Plain boundary lines; existing types of vegetation; any other unique natural, historical, archeological, and aesthetic resources; the proposed layout of the LOTS; proposed locations of DWELLING UNITS and accessory BUILDINGS; the proposed diversity and cost range for the DWELLING UNITS; dimensions, STREETS, garages, driveways, wells, utilities, wastewater disposal systems;

the proposed finished grades of the land; the proposed vegetation and landscaping including where existing vegetation is retained; proposed features designed for energy and water conservation and pollution control; the proposed layout and land use plan of the Common Land in the PCRC; the proposed form of ownership of the Common Land and any improvements proposed thereon.

[Note: The proposed insertion is underlined. Otherwise, no change.]

- 9.4 Procedural Requirements** – If the PCRC requires approval under the Subdivision Control Law, M.G.L., Chapter 41, the "PCRC Site Plan" shall contain a plan in the form and with the contents required of a Definitive Subdivision Plan by the Acton Subdivision Rules and Regulations. The applications for a PCRC Special Permit and for approval of a Definitive Subdivision Plan shall be filed concurrently. To the extent permitted by law, the Planning Board shall consider both applications at the same time.

[No change.]

- 9.5 Planning Board Action** – In evaluating the proposed PCRC, the Planning Board shall consider the general purpose and objectives of this Bylaw; the existing and probable future development of surrounding areas; the appropriateness of the proposed layout of STREETS, ways, LOTS, and STRUCTURES; the proposed layout and USE of the Common Land; the topography; soil; and other characteristics and resources of the TRACT OF LAND in question. The Planning Board may grant a special permit for a PCRC if it finds that the PCRC:

- a) complies in all respects with the applicable requirements of this Bylaw;
- b) enhances the purpose and intent of PCRC Development;
- c) enhances the goals of the Open Space and Recreation Plan;
- d) is in harmony with the character of the surrounding area and neighborhood; and
- e) complies with the requirements of Section 10.3.5.

- 9.5.1 The Planning Board shall consider the recommendations, if any, of the Board of Health, the Conservation Commission, and other town boards and staff in making said findings.

- 9.5.2 The Planning Board may require changes to the "PCRC Site Plan" and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this Bylaw, including without limitation, any conditions, safeguards or limitations listed in Section 10.3.6.

[Note - section 9.5 currently reads:

9.5 Planning Board Action – In evaluating the proposed PCRC, the Planning Board shall consider the general purpose and objectives of this Bylaw; the existing and probable future development of surrounding areas; the appropriateness of the proposed layout of STREETS, ways, LOTS and STRUCTURES; the proposed layout and USE of the Common Land in relation to the proposed DWELLING UNITS in the PCRC, the topography, soils and other characteristics and resources of the TRACT OF LAND in question. The Planning Board may grant a special permit for a PCRC if it finds that the PCRC:

- a) complies in all respects to the applicable requirements of this Bylaw and enhances the purpose and intent of Planned Conservation Residential Community Development,*
- b) is in harmony with the existing and probable future USES of the area and with the character of the surrounding area and neighborhood, and*

c) *complies with the requirements of Section 10.3.5.
The Planning Board may require changes to the "PCRC Site Plan" and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this Bylaw, including without limitation, any conditions, safeguards or limitations listed in Section 10.3.6.]*

9.6 Standards for PCRCs

9.6.1 Permitted USES – Permitted USES in a PCRC shall be any USE permitted in the underlying Zoning District, as well as ACCESSORY USES typically associated with residential USES, owned and operated by the owner of the PCRC or the residents within the PCRC, such as building and grounds maintenance facilities, wastewater disposal facilities, recreation facilities, or club houses.

[No change.]

9.6.2 Area and Dimensional Regulations:

[No change.]

9.6.2.1 PCRC Site Area – The TRACT OF LAND for a PCRC must contain a minimum area of 6 acres.

[Note - this paragraph currently reads:

9.6.2.1 PCRC Site Area – The TRACT OF LAND for a PCRC must contain a minimum area of 8 acres.]

a) The Planning Board may permit LOTS on directly opposite sides of a STREET to qualify as a single TRACT OF LAND. To permit such division of a TRACT OF LAND by a STREET, the Planning Board must find that this would enhance the purposes of PCRC and not result in any more DWELLING UNITS than would be possible in accordance with the provisions of this Bylaw if the LOTS on either side of the STREET were developed separately. If the Board approves a TRACT OF LAND divided by a STREET, it may permit the total number of permitted DWELLING UNITS to be constructed on either side of the STREET. AFFORDABLE DWELLING UNITS generated on the TRACT OF LAND under the provisions of Section 4.4.3 may be sited along with the other DWELLING UNITS whether or not the location of the AFFORDABLE DWELLINGS UNITS is within the AFFORDABLE Housing Overlay District. The DWELLING UNITS shall be constructed in accordance with the applicable PCRC requirements and the required Common Land may consist of land located on either side of the STREET.

[No change.]

b) Where a TRACT OF LAND is divided by a zoning district boundary between any of the R-2, R-4, R-8/4, R-10 or R-10/8 districts the total number of DWELLING UNITS permitted shall not exceed the number permitted in each district considered separately. AFFORDABLE DWELLING UNITS generated on the TRACT OF LAND under the provisions of Section 4.4.3 may be sited along with the other DWELLING UNITS whether or not the location of the AFFORDABLE DWELLINGS UNITS is within the AFFORDABLE Housing Overlay District. The DWELLING UNITS may be located in either district and shall be constructed in accordance with PCRC requirements.

[No change.]

9.6.2.2 Dimensional Requirements for BUILDINGS – There shall be no minimum LOT area, FRONTAGE, LOT width, or yard requirements within a PCRC, except as follows:

- a) No BUILDINGS or STRUCTURES shall be located within 45 feet of a pre-existing STREET, or within 15 feet of a new STREET, way, or common drive within the PCRC.
- b) No BUILDINGS or STRUCTURES shall be located within 30 feet of the boundary line of the PCRC or the Common Land.
- c) The minimum distance between residential BUILDINGS shall be 20 feet.
- d) Where a residential BUILDING measures more than 3000 square feet of GROSS FLOOR AREA per DWELLING UNIT, including any attached garages, the minimum setback from a street, way, or common drive within the PCRC shall be 30 feet, and the minimum separation to the next residential BUILDING shall be 40 feet.
- e) The Planning Board may impose other conditions on the locations of BUILDINGS and STRUCTURES, as it deems appropriate to enhance the purpose and intent of PCRC.

[No change in section 9.6.2.2 and sub-sections a) through e).]

9.6.2.3 Number of DWELLING UNITS – The maximum number of DWELLING UNITS permitted in a PCRC shall be 80% of the following, rounded up to the next integer:

[Note - this paragraph currently reads:

9.6.2.3 Number of DWELLING UNITS – The maximum number of DWELLING UNITS permitted in a PCRC shall be 90% of the following, rounded up to the next integer:]

- a) In the R-2 District: 1 DWELLING UNIT per 20,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.
- b) In the R-4 and R-8/4 Districts: 1 DWELLING UNIT per 40,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.
- c) In the R-8 and R-10/8 Districts: 1 DWELLING UNIT per 80,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.
- d) In the R-10 District: 1 DWELLING UNIT per 100,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.
- e) In the AFFORDABLE Housing Overlay District - Sub-Districts A and B: The number of DWELLING UNITS may be increased pursuant to the formulas provided in Section 4.4.3.1 and subject to the requirements of Sections 4.4.5, 4.4.6, 4.4.7, 4.4.8 and 4.4.9. The inclusion of AFFORDABLE DWELLING UNITS in compliance with the above referenced Sections of this Bylaw shall be authorized under a Special Permit for a PCRC.

[No change in sub-sections a) through e) above.]

9.6.2.4 BUILDING Requirements – There shall be no more than four DWELLING UNITS in any residential BUILDING. Except in the case of detached single family dwellings, there shall be not more than two garage spaces per DWELLING UNIT in any residential BUILDING. The overall length of any residential BUILDING shall not exceed 200 feet. Each DWELLING UNIT shall have two separate exterior entrances at ground level.
In its Rules and Regulations for PCRCs, the Planning Board may establish design guidelines for DWELLINGS, require submission of architectural floor plans and elevation

plans for all proposed DWELLINGS, and impose additional conditions affecting the design and location of DWELLINGS.

[Note: The proposed insertion is underlined. Otherwise, no change.]

9.6.2.5 Parking Requirements – A minimum of 2 parking spaces per DWELLING UNIT including garages shall be provided.

[No change.]

9.6.2.6 Storm Water Runoff – The peak rate of storm water runoff from a PCRC shall not exceed the rate existing prior to the new construction based on a 10-year design storm.

[No change.]

9.6.3 Common Land Standards:

[No change.]

9.6.3.1 Dimensional Requirements for the Common Land – In a PCRC, at least sixty percent (60%) of the land shall be set aside as Common Land for the use of the PCRC residents or the general public. The following additional requirements shall apply:

- a) The minimum required area of the Common Land shall not contain a greater percentage of wetlands, as defined in M.G.L. Chapter 131, Section 40, than the percentage of wetlands found in the overall TRACT OF LAND on which the PCRC is located.
- b) The minimum Common Land shall be laid out as one or more large, contiguous parcels that are distinct from parcels dedicated for other purposes and USES. Each Common Land parcel shall contain at least one access corridor to a STREET or way that shall be not less than 40 feet wide.
- c) If the TRACT OF LAND of the PCRC abuts adjacent Common Land or undeveloped LOTS, the Common Land shall be laid out to abut the adjacent Common Land or undeveloped LOTS.

[No change to section 9.6.3.1 and subsections a) through c).].]

9.6.3.2 USE of the Common Land – The Common Land shall be dedicated and used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of those USES. No other USES shall be allowed in the Common Land, except as provided for herein:

[No change.]

- a) The proposed USE of the Common Land shall be specified on a Land Use Plan and appropriate dedications and restrictions shall be part of the deed to the Common Land. The Planning Board shall have the authority to approve or disapprove particular USES proposed for the Common Land in accordance with the purposes of this bylaw.

[Note - this sub-section a) presently reads:

a) The proposed USE of the Common Land shall be specified on a Land Use Plan and appropriate dedications and restrictions shall be part of the deed to the Common Land. The Planning Board shall have the authority to approve or disapprove particular USES proposed for the Common Land in order to enhance the specific purposes of PCRC Development.]

- b) The Common Land shall remain unbuilt upon, except such land may be subject to pavement and STRUCTURES accessory to the dedicated USE or USES of the Common Land.

[Note - this sub-section b) presently reads:

b) The Common Land shall remain unbuilt upon, provided that an overall maximum of five (5) percent of such land may be subject to pavement and STRUCTURES accessory to the dedicated USE or USES of the Common Land.]

- c) In addition, a portion of the Common Land may also be used for the construction of leaching areas, if associated with septic disposal systems serving the PCRC, and if such USE, in the opinion of the Planning Board, enhances the specific purpose of PCRC Development and promotes better overall site planning. Septic disposal easements shall be no larger than reasonably necessary. If any portion of the Common Land is used for the purpose of such leaching areas, the Planning Board shall require adequate assurances and covenants that such facilities shall be maintained by the LOT owners within the PCRC.

[No change.]

- d) In addition, a portion of the Common Land may also be used for ways serving as pedestrian walks, bicycle paths, and emergency access or egress to the PCRC or adjacent land, if such a USE, in the opinion of the Planning Board, enhances the general purpose of this Bylaw and enhances better site and community planning, and if the Planning Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the owner of the Common Land.

[No change.]

- e) Portions of the Common Land that are in excess of the minimum Common Land total area and upland area as calculated in accordance with section 9.6.3.1, including its subsection a), may be used for storm water detention and retention facilities serving the LOTS, STREETS and ways in the PCRC, including infrastructure such as pipes, swales, catch basins, and manholes, and parcels and easements associated with such facilities.

[No change.]

- 9.6.3.3 Ownership of the Common Land – The Common Land shall be conveyed in whole or in part to the Town of Acton and accepted by it, or to a non-profit organization, the principal purpose of which is the conservation of open space and/or any of the purposes and USES to which the Common Land may be dedicated. The Common Land may also be conveyed to a corporation or trust owned or to be owned by the owners of DWELLING UNITS within the PCRC. The Planning Board shall approve the form of ownership of the Common Land. If the Common Land or any portion thereof is not conveyed to the Town of Acton, a perpetual restriction, approved by the Planning Board and enforceable by the Town of Acton, shall be imposed on the USE of such land, providing in substance that the land be kept in its open or natural state and that the land shall not be built upon or developed or used except in accordance with the provisions of a PCRC as set forth herein and, if applicable, as further specified in the decision of the Planning Board governing the individual PCRC. The proposed ownership of all Common Land shall be shown on the Land Use Plan for the PCRC. At the time of its conveyance, the Common

Land shall be free of all encumbrances, mortgages, tax liens or other claims, except as to easements, restrictions and encumbrances required or permitted by this Bylaw.

[No change.]

- 9.7 STREETS, Utilities and Lighting** – Whether or not the Planned Conservation Residential Community is a subdivision, all STREETS and ways whether public or private, wastewater disposal and drainage facilities and utilities shall be designed and constructed in compliance with the Town of Acton Subdivision Rules and Regulations, as amended. Special exception(s) to the Subdivision Rules and Regulations may be authorized by the Planning Board in granting a special permit hereunder provided the Board determines such exception(s) is in the public interest and is not inconsistent with the purposes of Section 9.1. The Planning Board may impose appropriate standards for all outdoor lighting within a PCRC.

[No change.]

- 9.8 Revisions and Amendments of "PCRC Site Plans"** – Any change in the layout of STREETS and ways, in the configuration of the Common Land, in the ownership or USE of the Common Land, or any other change which, in the opinion of the Building Commissioner, would significantly alter the character of the PCRC, shall require the written approval of the Planning Board. The Planning Board may, upon its own determination, require a new special permit and hold a public hearing pursuant to Section 10.3 of this Bylaw, if it finds that the proposed changes are substantial in nature and of public concern.

[No change.]

- 9.9 Previously Approved PCRC Developments** – Nothing herein shall be construed to prevent the orderly completion of any previously approved PCRC development. Any previously approved PCRC development shall be subject to the Zoning Bylaw in effect at the time when it was approved. However, the Planning Board may authorize BUILDING setbacks, BUILDING dimensions, and arrangement of garages in accordance with Sections 9.6.2.2 and 9.6.2.4 of this Bylaw.

[Note - section 9.9 presently reads:

9.9 Previously Approved PCRC Developments – Nothing herein shall be construed to prevent the orderly completion of any PCRC development previously approved in whole or in part within a PCRC Zoning District. The PCRC Zoning District shall remain in effect where previously established, and any PCRC development within such district shall be subject to the Zoning Bylaw in effect at the time when the applicable portion of such district was established. However, the Planning Board may authorize BUILDING setbacks, BUILDING dimensions and arrangement of garages in accordance with Sections 9.6.2.2 and 9.6.2.4 of this Bylaw.]

,or take any other action relative thereto.

SUMMARY

In the 2002 Annual Town Meeting warrant, a citizen petition article had proposed to repeal section 9. At the Town Meeting, the petitioner had moved to take no action on the article. Since then, the PCRC Study Group has worked to understand the PCRC in Acton, other options of cluster development, cluster development regulations and their results in other towns, and possible

changes to Acton's PCRC standards. This article is the result of that work. The majority of the proposed changes are updates, simplifications, and clarifications. Two significant changes are:

- The reduction of the minimum tract size for a PCRC from 8 acres to 6 acres. This qualifies +/- 50 additional parcels for PCRC development.
- The reduction by a ten percent increment, from 90% to 80%, in the formula that determines the number of dwelling units in a PCRC. This results in a roughly 11% reduction of the maximum dwelling unit yield in PCRCs.

Direct inquiries to: Roland Bartl, AICP, Town Planner – 264-9636
Selectman assigned:

Selectmen:

Finance Committee:

Planning Board: Recommended

ARTICLE AF AMEND ZONING BYLAW HOUSEKEEPING
(2/3 vote required)

To see if the Town will vote to amend the zoning bylaw as follows:

[Notes in italic print are not part of the Article but are intended for explanation only.]

- A. Delete section 5.6.3.5 in its entirety.

*[Note - section 5.6.3.5 is part of the special provisions for the Kelley's Corner District. It reads:
5.6.3.5 Wastewater Infrastructure – The Site Plan Special Permit Granting Authority shall require a contribution in the amount of \$2.50 per square foot of NET FLOOR AREA in excess of FLOOR AREA RATIO 0.20. Said contribution shall be made to the Town of Acton for deposit into a fund to be used for the design and construction of a centralized wastewater collection, treatment and disposal system serving the Kelley's Corner District and other areas within the Town of Acton, including the acquisition of necessary land or easements, or for the payment of any debt incurred by the Town of Acton for such purposes. On any LOT where the FAR existing on or before April 1, 1996 exceeds 0.20, the contributions calculated pursuant this section shall be based on the difference between the existing NET FLOOR AREA and the proposed NET FLOOR AREA.]*

- B. In section 3.5.6, 2nd sentence, in the phrase "Business USES and DWELLING UNITS may in the same BUILDING" insert the word "be" after "may".

- C. In section 7.13.2.9, change the section references 7.12.1.1 and 7.12.1.3 to 7.13.1.1 and 7.13.1.3 respectively. In section 7.13.3, change the section reference 7.12.2 to 7.13.2.

,or take any other action relative thereto.

SUMMARY

Part A would delete an obsolete section of the zoning bylaw that requires contributions towards a municipal sewer system from certain development projects in Kelley's Corner. Today, municipal sewers are installed and in use. No funds were collected under this section, because no developments triggered the contribution threshold. Parts B and C make typographical corrections.

Direct inquiries to: Roland Bartl, AICP, Town Planner - 264.9636
Selectman assigned:

Selectmen:
Finance Committee:
Planning Board: Recommended

ARTICLE AG – AMEND TOWN CHARTER, HOUSEKEEPING
(Majority Vote Required)

To see if the Town will vote to amend the Town Charter Section 4-2 by replacing titles of Alternate Voting Members in accordance as follows:

1. Replace “Board of Appeals (Assoc. Members) with “Board of Appeals (Alternate Members)”

2. Replace “Planning Board (Associate Members)” with “Planning Board (Alternate Members)”

, or take any other action relative there to.

SUMMARY

The purpose of this amendment is to provide consistent terminology to designate Voting Alternates to the various Boards and Committees

Direct inquiries to:
Selectman Assigned

Board of Selectmen:
Finance Committee:

ARTICLE AH AMEND TOWN BYLAWS, Dog License Fees
(Majority Vote)

To see if the Town will vote to amend Chapter E Section E22 of the Town Bylaws to eliminate the schedule of Fees and replace them as follows:

Male Dog/Female Dog	\$
Spade/neutered Dog	\$
Kennel – 1 (4 dogs or less)	\$
Kennel – 2 (5 to 10 dogs)	\$
Kennel – 3 (over 10 dogs)	\$

, or take any other action relative thereto.

SUMMARY

Direct inquiries to:
Selectman Assigned

Board of Selectmen:
Finance Committee:

ARTICLE AI TAX COLLECTIONS
(Majority Vote)

To see if the Town will vote to accept the provisions of Mass General Laws Chapter 60, Section 2, Paragraph 2. Allowing the Collector to abate certain taxes, or take any other action relative there to.

SUMMARY

The provisions of the second paragraph of Chapter 60 Section 2, if accepted by Town Meeting, allow the Collector to abate unpaid tax bills of less than \$10.00, where collection costs would exceed the value of the tax. Acceptance of this paragraph would increase efficiencies and save money in certain instances.

Direct inquiries to:
Selectman Assigned

Board of Selectmen:
Finance Committee:

ARTICLE AJ TAX AGREEMENTS FOR AFFORDABLE HOUSING DEVELOPERS
(Majority Vote)

To see if the Town will vote to accept the provisions of General Law Chapter 58 Section 8C, which would allow the Town to enter in to agreements with developers of affordable housing for the payment of outstanding property taxes, including abatement of an about that makes developing the site economically feasible, or take any other action relative thereto.

SUMMARY

Acceptance of this law would help promote affordable housing construction on real property parcels that are currently non-productive due to delinquent municipal taxes and charges.

Direct inquiries to:
Selectman Assigned

Board of Selectmen:
Finance Committee:

ARTICLE AK OPTIONS FOR TAX TITLE FORECLOSURE
(Majority Vote)

To see if the Town will vote to accept the provisions of Mass General Laws, Chapter 60, s77C, which permits Towns to accept a deed from all persons with an interest in certain properties on which there are outstanding taxes and charges as an alternative to tax taking and foreclosure procedures, or take any other action relative thereto.

SUMMARY

Acceptance of this provision of the General Laws would expedite certain tax taking and foreclosure procedures, increasing the efficiency of the Collector's Office and reducing the cost of foreclosures.

Direct inquiries to:
Selectman Assigned

Board of Selectmen:
Finance Committee:

ARTICLE AL AMEND WETLANDS PROTECTION BYLAW (Majority Vote)

To see if the Town will vote to amend the Town Bylaws Chapter F, Wetland Protection as follows:

To see if the Town of Acton will vote to amend Sections F1, F3.14, F8.2, F8.3 and F10 of the Wetlands Protection Bylaw as set forth in this article. Words in ***bolded italics*** represent new or modified language to the original text and lines through words represent elimination of original text.

Section F1 Purpose

The purpose of this Bylaw is to protect the wetlands, vernal pools, adjoining buffer zones, banks, lands subject to flooding and riverfront areas (collectively, "the resource areas") of the Town of Acton by controlling activities deemed ***by the Conservation Commission likely*** to have a significant ***or cumulative*** impact upon wetland interests. Said wetland interests include (but are not limited to) the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution prevention, fisheries, protection of endangered or threatened species, and wildlife habitat (collectively, the interests protected by this Bylaw). The Town of Acton Wetlands Map shows the approximate location of most of the Town's wetlands and shall be used as a guide to wetland location.

Section F3.14

The term "vernal pool" as used by this Bylaw shall include, in addition to that already defined under the Massachusetts Wetlands Protection Act and regulations (310 CMR 10.00), any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways that meets the certification criteria established in the Guidelines for Certification of Vernal Pool Habitat published by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The buffer zone for vernal pools shall extend ~~the smaller of 1) 100 horizontal feet from the mean annual high-water line defining the depression, or 2) one half of the distance between the mean annual high-water line and any existing house foundation.~~ Existing lawns, gardens, or landscaped or developed areas are excluded from the buffer zone.

Section F8.2 Order of Conditions

The Conservation Commission may impose such conditions on any proposed removing, dredging, filling or altering as it deems necessary to protect and preserve the interests covered by this Bylaw. ***In preparing the Order of Conditions the Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of protected resource areas throughout the municipality, resulting from past activities, permitted and exempt, and foreseeable future activities.*** Such Order of Conditions shall be in writing and may be subject to the same constraints and be identical to any such order issued by the Acton Conservation Commission under the provisions of M.G.L. Ch. 131, s.40, or successor statutes, and shall be issued within 30 days after the public hearing. Such Order of Conditions will expire three years from the date of issuance, unless renewed prior to expiration. No proposed work governed by an

Order of Conditions shall be undertaken until all permits, approvals, and variances required by local Bylaws have been obtained and all applicable appeal periods have expired. The final Order of Conditions issued under this Bylaw shall be recorded with the Registry of Deeds for the district in which the land is located. However, if said Order is identical to the final Order of Conditions issued under the provisions of M.G.L. Ch. 131, s.40, only one Order of Conditions need be recorded. The Conservation Commission shall have the right to file the Order of Conditions with the Registry of Deeds should the applicant fail to do so within 60 days. If a wetland replication is required, the applicant will adhere to replication procedures established by the Commission or as set down in the Commission's Rules and Regulations.

Section F8.3 Setbacks for Activities

The following are the minimum distances (setbacks) of activity from the edge of wetlands or vernal pools. No activity shall be allowed within these setbacks except as provided below. These setbacks are the minimum and may be extended further if deemed necessary for the protection of the interests of the Bylaw by the Commission.

The setbacks shall be as follows:

- (1) 0-foot setback for wetland-dependent structures (drain outfalls, weirs, etc.), fences, and structures necessary for upland access where reasonable alternative access is unavailable.
- (2) ~~25~~ **50**-foot buffer of undisturbed natural vegetation.
- (3) ~~40~~ **75**-foot setback to the edge of driveways, roadways, and structures.
- (4) ~~40~~ **50**-foot chemical-free area within which no pesticides, herbicides, or fertilizers shall be used.
- (5) 100-foot setback for underground storage of gasoline, oil, or other fuels and hazardous materials.
- (6) **100-foot setback from the mean high water line of vernal pools.**
- (7) **75-foot setback to septic system leaching fields and tanks.**

When in the opinion of the Commission compliance with these setbacks will result in greater harm to the interests of this Bylaw than would waiver of the setbacks, the Commission is permitted to grant such waivers.

Pre-existing activities or structures not meeting the setbacks set forth above need not be discontinued or removed [but shall be deemed to be nonconforming]. No new activity shall be commenced and no new structure shall be located closer to the edge of wetlands or vernal pools than existing non-conforming like activities or structures, but the Commission may permit new activity or structures as close to the edge of wetlands or vernal pools if it finds that such activity or structure will not affect the interests protected by the Bylaw no more adversely than the existing activity or structure.

Section F10 Denial

~~The Conservation Commission may deny permission for any removing, dredging, filling, or altering if, in its judgment such denial is necessary to protect and preserve the interests identified in Section F1 of this Bylaw. Due consideration shall be given to possible effects of the proposal on such interests and to any demonstrated hardship on the petitioner by reason of denial as brought forth at the public hearing.~~

The Conservation Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulatively adverse effects upon the wetland values protected by this bylaw; or where the Commission deems that no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

SUMMARY

Direct inquiries to:
Selectman Assigned

Board of Selectmen:
Finance Committee:

ARTICLE AM ** AMEND LOCAL HISTORIC DISTRICT BYLAW - HOUSEKEEPING
(Majority Vote)

To see if the Town will vote to amend Chapter P "Local Historic District Bylaw" of the Town Bylaws as follows:

P2. "Definitions" revise definition of a "Person Aggrieved" by inserting at the end of the sentence the following:

"and any charitable corporation in which one of its purposes is the preservation of historic structures or districts".

P11. "Enforcement and Penalties" in paragraph 11.5 delete "c.40 " and replace with "c.40C".

P12. "Appeals" revise the last sentence by deleting "c.40" and replacing with "c.40C"

SUMMARY

These changes are made at the recommendation of the Attorney General to bring the local bylaw in to conformity with the State law and to correct typographic errors.

Direct inquiries to:
Selectman Assigned

Board of Selectmen:
Finance Committee:

02/21/035:02 PM
2003 work warrant #2

ARTICLE AN AMBULANCE FEES – ACCEPT CHAPTER SECTION
(Majority Vote)

**STEVE OR JOHN TO PROVIDE WORDING AND BACKUP
MATERIALS**

Direct inquiries to:
Selectman Assigned

Board of Selectmen:
Finance Committee:

ARTICLE AO HEALTH INSURANCE TRUST AGREEMENT (Majority Vote)

To see if the town will vote to accept the provisions of a revised health insurance trust agreement between the Town of Acton and the Acton Boxborough Regional School District, as printed below, in accordance with the provisions of general law chapter xx, section xx

Article 1: Authority and Purpose

This agreement is entered into as authorized by the M.G.L. Chapter 32B, Section 12 to enable the governmental units executing this agreement as indicated in Article 17 hereof, and any subsequent amendment to this Agreement additional governmental units accepted for participation in accordance with the procedures described in Article 3 and Article 12 hereof, to join together, by means of a Massachusetts Municipal Insurance Joint Purchase Trust, in negotiating and purchasing policies and contracts of insurance and other contracts including but not limited to health insurance, Health Maintenance Organization coverage, reinsurance, Administrative Services Only coverage, Medicare supplement coverage, Preferred Provider Arrangements, Medigap plans, and other programs of group health coverage, (hereinafter collectively referred to as "group health plans") and to establish a Trust (as hereafter described) to aid in the implementation of said collective negotiations and purchases, and to otherwise operate in conformity with M.G.L. c 32B. It is also understood that this Agreement will supersede the existing Agreement dated May, 1985 by and between the Town of Acton, the Acton-Boxborough Regional School District, and the Acton Water District. It is further understood that pursuant to the existing agreement, the Water Supply District of Acton has elected to terminate its participation as a Member of that agreement, and therefore is not included in this Agreement.

Article 2: Participants

The participants in this Agreement, hereinafter referred to as "Participating Governmental Units", are the Town of Acton and the Acton-Boxborough Regional School District. It is understood and agreed that additional governmental unit participants may be added pursuant to Article 3 and Article 12. The organization of Participating Governmental Units shall be called the "Acton Health Insurance Trust", and sometimes hereinafter referred to as the "Joint Purchase Trust."

Article 3: Term of Agreement and Participation

3.1 Term of Agreement

The Agreement shall establish the Acton Health Insurance Trust as a Massachusetts Insurance Joint Purchase Trust shall take effect on July 1, 2003 (hereinafter sometimes referred to as the "effective date") provided this agreement has been accepted by vote of the Regional School District, and by vote Town Meeting for the town of Acton. This Agreement shall continue in full force and effect subject to amendment as agreed upon in accordance with the terms of Article 12 of this agreement as long as two or more governmental units elect to continue participation. The

responsibilities of the Participating Governmental Units are those described in Article 7 of this Agreement.

3.2 Acceptance of New Participating Governmental Units

It is understood and agreed that any governmental unit which did not elect to participate in the Agreement on the effective date may make application for participation, to commence on a date mutually agreed upon, in accordance with the terms of this Article 3. Applications for participation shall be reviewed by the Trustees, and they shall make a recommendation regarding acceptance to the appropriate public authority (Board of Selectmen, Regional School Committee) of the Participating Governmental Units.

The appropriate public authority of the Participating Governmental Units shall act on the recommendation of the Trustees and additional governmental units may be added commencing on a date mutually agreed upon, provided that each of the public authorities of the Participating Governmental Units votes to accept such additional participant[s] in accordance with Article 12 of this Agreement. It is agreed and understood that, within thirty (30) days of the date of acceptance of a candidate Participating Governmental Unit, the candidate Participating Governmental Unit shall execute this Agreement, and shall appoint two (2) Trustees in accordance with Article 4 and Article 7 of this Agreement and shall be bound by all terms, conditions, and requirements of this Agreement and of the administrative procedures in effect from time to time including but not limited to agreement as to the appropriate voting rights of each member.

3.3 Withdrawal from Participation

It is agreed and understood that any Participating Governmental Unit may withdraw from participation in the Acton Health Insurance Trust at its discretion. It is further understood and agreed that any election by a Participating Governmental Unit to withdraw from participation in this Agreement requires notification to the Trustees of such intent to withdraw not more than ninety (90) days prior to end of the fiscal year and shall take effect at the end of that fiscal year. The Participating Governmental Unit withdrawing shall remain liable for those charges, expenses, and other assessments described in Article 10 and Article 11 of this Agreement, and shall be entitled to receive its proportionate share of any surplus as described in Article 10.

Article 3.4 Termination of Participation

It is understood and agreed that any Participating Governmental Unit that is ninety (90) days or more in arrears of any payment due under Article 10 or Article 11 of this Agreement, may be terminated from participation in this Agreement by a vote of the appropriate public authority of the Participating Governmental Unit plus an affirmative vote of the Finance Committee of the town of Acton on the basis of a recommendation of the Trustees as long as only two Participating Governmental Units remain members. Should the Trust membership increase to more than two, the vote shall be by a majority of the appropriate public authorities of the Participating Governmental Units. Such termination shall not limit the remaining Participating Governmental Units from obtaining payment of all monies in arrears under Article 10 or other charges, expenses, or other assessments as described in Article 11 of this Agreement.

It is also understood and agreed that any Participating Governmental Unit which fails to meet its obligations and responsibilities under this Agreement, including the appointment of Trustees and the provision of information to the Trustees or its designee which is necessary for the operation and administration of the Joint Purchase Trust, may be terminated from participation in this Agreement by a vote of the appropriate public authority of the Participating Governmental Unit plus an affirmative vote of the Finance Committee of the town of Acton on the basis of a recommendation of the Trustees as long as only two Participating Governmental Units remain members. Should the Trust membership increase to more than two, the vote shall be by a majority of the appropriate public authorities of the Participating Governmental Units. Such termination shall not limit the remaining Participating Governmental Units from obtaining payment of all monies in arrears under Article 10 or other charges, expenses, or other assessments as described in Article 11 of this Agreement.

Article 4 Board of Trustees

Article 4.1 Appointment to the Board; Voting Rights; Authority

Executive authority shall be vested in a Board known as the "Board of Trustees of the Acton Health Insurance Trust," hereinafter referred to as the "Board." The appropriate public authority of each Participating Governmental Unit shall appoint two Members of the Board. One of the Members shall be the Treasurer of the Participating Governmental Unit. The other Member shall be appointed to serve a three-year term and may be appointed for an additional term or terms subject to the discretion of the appropriate public authority of each Participating Governmental Unit. A fifth member of the Board shall be appointed by and from the Finance Committee of the town of Acton and shall serve a three-year term and may be appointed for one additional term subject to the discretion of the Finance Committee. Should any appointed member resign, the appropriate authority shall appoint a replacement Member to serve out that term.

For purposes of determining and counting votes, each member of the Board representing the Town of Acton and the Acton-Boxborough Regional Schools shall have one vote and the member from the Finance Committee shall have one vote. Should another Participating Governmental Unit elect to join the Trust, the matter of voting rights shall be revisited by the Board and the Participating Governmental Units.

Article 4.2 Responsibilities of the Board

The responsibilities and authority of the Board are those which are necessary for the general oversight and control of the Joint Purchase Trust, including, but not limited to, the following:

- 4.2.1** To determine the general direction and policy of the Joint Purchase Trust and to take such action as is necessary to execute these policies and programs;
- 4.2.2** To appoint the Administrator of the trust, responsible for the daily operations and accounting for the trust, whose duties and responsibilities are set forth in Article 8;

- 4.2.3 To meet to discuss the affairs of the Joint Purchase Trust and to consider recommendations of consultants, the Administrator, Board members, or other agents, advisors or counsel;
- 4.2.4 To establish and practice sound financial management procedures and programs;
- 4.2.5 To consider the application of any candidate Participating Governmental Units submitted under Article 3 and make appropriate recommendations to the appropriate public authority of the Participating Governmental Units, and to take appropriate action to terminate participation of a Participating Governmental Unit as described by Article 3.4;
- 4.2.6 To negotiate and execute contracts with persons or entities necessary or convenient to the provision of group health coverage and/or to the management and administration of the Trust;
- 4.2.7 To provide for an annual independent audit of the Joint Purchase Trust and to provide copies of such audit to each Participating Governmental Unit; it is understood that such audit may be performed as part of a Participating Governmental Unit's own audit if that entity is acting as the Administrator of the Trust as described in Article 4.2.2 and Article 8, provided a majority of the Participating Governmental Units agree.
- 4.2.8 To elect a Chairman and a Secretary in accordance with Article 5; the Chairman and Secretary shall each serve a 12 month term and shall perform the duties outlined in Article 5;
- 4.2.9 To review annual rate renewals and funding arrangements for group health insurance coverage purchased under this Agreement, and to review and approve underwriting recommendations as provided by consultants to the Trust regarding monthly premium contribution rates necessary for the funding of the program;
- 4.2.10 To enter into reinsurance or excess loss insurance for claims of participants covered under the Trust in excess of such amounts or limits as the Board shall determine from time to time. Such reinsurance or excess loss insurance shall provide for payment of any proceeds thereof to the Trust.
- 4.2.11 To communicate, through the Board Members the action of the Board to each Participating Governmental Unit and its public authority;
- 4.2.12 To determine, based upon reports provided by the administrator of the Trust, independent auditor, and other parties as necessary, within nine (9) months of the end of the policy year, a reconciliation of the Joint Purchase Trust balance in accordance with Article 10 of this Agreement, and to take all steps and carry out all actions necessary or convenient to administer a surplus or deficit in accordance with Article 10.
- 4.2.13 To invest and reinvest funds held in the Trust in accordance with applicable legal standards.

Article 5 Officers of the Trust

At a meeting duly called, the Board shall elect from its membership, by majority vote of its Members in attendance, a Chairman, who shall serve a term of twelve (12) months, unless replaced prior to termination of such term by a vote of the majority of the Board Members in attendance at a duly called meeting. A Secretary shall also be elected for a like term in like fashion. If the Board Chairman is removed from office in accordance with the terms of this Article 5 or is otherwise unable to complete his or her term, the Board shall elect a new Chairman as described herein. Either the Chairman or the Secretary or both may succeed themselves.

It shall be the duty of the Board Chairman to establish a schedule of Board meetings, including designation of the date, place, and time of such meetings, and to call any special or emergency meetings, and to perform other duties and functions as delegated by the Board. In the event the Chairman is unable to preside at a meeting, a Chairman *pro tem* may be elected to preside over that meeting, being elected at the outset of the meeting in the fashion described above.

It shall be the duty of the Secretary to record the minutes of each meeting, including but not limited to, all decisions reached by the Board. The minutes shall be recorded and distributed to each Board Member within two weeks of the conclusion of each Board Meeting. If the Secretary is unable to attend a Board Meeting, then it shall be the responsibility of the Chairman to appoint a Secretary *pro tem* to perform the duties of the Secretary for that meeting.

Article 6 Quorum

The Board shall adopt a schedule of meeting dates and times for the conduct of ordinary business, and shall establish reasonable procedures for rendering notice to the Members of the Board concerning special meetings. A quorum of the Board for any regularly scheduled or special meeting shall consist of not less than three of the members of the Board and must include at least one Member from each Participating Governmental Entity. A majority vote of the Members in attendance at a duly called meeting shall be deemed to be a vote of the Board, unless otherwise specified in this Agreement.

Article 7 Responsibilities of the Participating Governmental Units

It is agreed and understood that each Participating Governmental Unit is responsible for functions and duties as described below:

- 7.1 Each Participating Governmental Unit is responsible for appointing two primary and one alternate Board Members within thirty (30) days of execution of this Agreement, and for appointing replacements as necessary. The primary and alternate Board Members shall represent the interests of the Participating Governmental Unit, and the vote of any Board Member or alternate Board Member shall be deemed binding on the Participating Governmental Unit represented by such primary or alternate Board Members;

- 7.2 Each Participating Governmental Unit is responsible for making timely payment of monthly premium contributions, HMO contributions, proportionate share of other expenses and deficit allocation, and all other charges assessed by the Trust;
- 7.3 Each Participating Governmental Unit is responsible for designating an "accounting contact" who shall be the Participating Governmental Unit's primary liaison with the Trust administrator for purposes of billing, enrollment, and accounting activities;
- 7.4 Each Participating Governmental Unit is responsible for providing to the Board, the Trust administrator, and other designees of the Board with all information necessary to establish and administer the Joint Purchase Trust;
- 7.5 Each Participating Governmental Unit is responsible for ensuring that it is represented at scheduled and special meetings of the Board;
- 7.6 Notwithstanding any other provisions of this Agreement, a Participating Governmental Unit maintains its autonomy and responsibility for performing those duties of an employer specified under state and federal law, under any other regulation, statute, or agreement, and for which authority is not specifically granted to the Board, including, but not limited to:
 - 7.6.1 Collective bargaining;
 - 7.6.2 Collection of premium amounts due from employees, former employees, retirees, and other persons covered by group health coverage under this Agreement;
 - 7.6.3 Determination of eligibility for health plan coverage and compliance with federal statutes as they relate to health care coverage for the working aged and Medicare as Secondary Payor;
 - 7.6.4 Compliance with federal statutes regarding notification to and from affected parties of eligibility rights under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), and any other notification obligations under state or federal law;
 - 7.6.5 Appropriation of monies necessary to fund the Participating Governmental Unit's health plan or health maintenance organization contributions or other contributions to group health coverage of the Trust;
 - 7.6.6 Funding and payment of all claims, administration charges, premium charges, and other health plan charges or charges for any person insured by the Participating Governmental Unit which were incurred prior to the effective date of coverage under health plans purchased under this agreement;
 - 7.6.7 Worker's Compensation;
 - 7.6.8 Social Security;
 - 7.6.9 And other programs and plans not purchased under this Agreement.

Article 8 Administration of the Joint Purchase Trust

The Board shall appoint a Trust Administrator in accordance with Article 4 of this Agreement. It is anticipated that the Trust Administrator shall be one of the Participating Governmental Units, however, the Board may at its discretion elect to hire an outside Trust Administrator. The Administrator may serve for a period as long as deemed appropriate by the Board. A vote to replace the Administrator or notification of withdrawal by the Administrator must occur at least one hundred eighty (180) days prior to the end of the fiscal year to take effect at the end of that fiscal year.

The Treasurer of the Participating Governmental Unit that is appointed Administrator shall act as the Treasurer of the Trust. Subject to the direction of the Board, the Treasurer of the Trust shall be responsible to select a bank or banks as depository(ies) of the Trust's funds; to manage, invest, and reinvest funds using sound financial management practices; to ensure collection of health insurance and other assessments of the Trust; to withdraw funds as necessary for the operation of the Trust and payment of expenses; and to report to the Board. It shall be the responsibility of the Trust Administrator to carry out policies approved by the Board and to perform the daily trust administration accounting and operations. These duties and responsibilities may include, but are not limited to, the following activities:

- 8.1** Enrollment coordination and billing of Trust premium contributions due;
- 8.2** Receipt of premium contributions and other payments;
- 8.3** Liaison with insurers, claims administrators, Participating Governmental Units, Health Maintenance Organizations, and other parties relative to the administration and operation of group health coverage purchased under this Agreement;
- 8.4** Technical and legal support services;
- 8.5** Underwriting services;
- 8.6** Administrative support to the Board;
- 8.7** Accounting, auditing, and reporting;
- 8.8** Other activities as directed by the Board.

For any services described in Section 8 above that are provided by third parties, the Board shall be responsible for reviewing the performance of such services and approving payment thereof from the Trust. To the extent that one or more of the Participating Governmental entities provides any of the services described in Section 8 above, the Board shall be responsible for determining the amount of compensation, if any, to be provided to that entity (or entities) for services rendered. In determining the payment to be made, the Board shall consider the fact the town of Acton has provided several of these services to the Trust without remuneration for the past 18 years.

Article 9 Communication

It shall be the duty of each Member of the Board to communicate all matters relating to the action of the Board to the Member's respective Participating Governmental Unit's Public Authority. Dissemination of the meeting minutes to the Participating Governmental Unit's Public Authority shall be considered one means by which such communication may be accomplished. At the discretion of the Participating Governmental Unit's Public Authority, an annual update regarding the status of the Trust shall be delivered by a Board Member to the Participating Governmental Unit's Public Authority.

Article 10 Determination of Rates and Fund Balance

The Board shall determine by majority vote the monthly rates payable by each Participating Governmental Unit with the advice and recommendations of consultants as well as each Participating Governmental Unit. Those rates shall be set at amounts which will fully satisfy the funding requirements of the Trust from which all claims will be paid and will include consideration in the rates of the impact of the current reconciled fund balance.

The Board shall review and determine within nine (9) months of the last day of the plan year, a reconciliation of the trust fund balance for the Joint Trust for that plan year. In establishing the reconciled fund balance, the Board shall include a factor to represent the cost of run-out claims which were incurred as of the last day of the plan year, but not paid as of the reconciliation date. A "surplus" will be deemed to exist if the reconciled fund balance excluding run-out claims exceeds thirty percent (30%) of the funding requirements of the Trust anticipated for the next plan year.

In the case of a certified surplus fund balance, the Board may reduce monthly premium rates below that which would fully satisfy the funding requirements of the Trust. The funding requirements for the claims trust fund will be established through underwriting and/or actuarial estimates. The surplus may also be distributed to the Participating Governmental Units in proportion to the number of governmental unit participant employees and retirees covered under the contracts purchased under the authority of this Agreement at the time the surplus was incurred. In the case of a deficit, additional revenue shall be raised by increasing rates from each Participating Governmental Units and their employees in proportion to the number of governmental unit participant employees and retirees covered under the contracts purchased under the authority of this Agreement at the time the deficit was incurred.

Article 11 Payment of Premiums

It is understood and agreed that each Participating Governmental Unit will agree to transfer the existing fund balance from the existing agreement to the joint Purchase Trust. In addition, each Participating Governmental Unit shall make payment on a monthly basis of the health insurance premium or funding rate for all covered services and if applicable for allocated expenses for the Administrator, consultant, outside auditor, and other expenses of the Trust. It is further understood and agreed that the Administrator shall determine, subject to approval of or ratification by the Board, the total monthly payment due from each Participating Governmental Unit, including debits and credits.

The Board shall contract with one or more banks to act as depository of payments contemplated by this Article 11 and accounts established shall be on terms which are the most advantageous to the Joint Purchase Trust. Each designated bank shall be required to act under the direction of the Board for the benefit of the Participating Governmental Units and the Board, and shall provide periodic reports and statement of accounts as required by the Board.

The Board shall provide for an independent audit of the payments contemplated by this Article 11. This report shall be provided to the Board. The Board shall provide one (1) copy to the appropriate public authority of the Participating Governmental Units and to others as deemed appropriate.

All payments described in this Article 11 shall be due and payable no later than thirty (30) days following receipt of notice or bill from the Administrator. Interest at a rate to be determined by the Board shall accrue starting on the thirty-first (31st) day following receipt of notice or bill. In the event that any such payment is in arrears or in the event that the Board determines that additional funds are required due to the premium and other charges contemplated by this Article 11, the Board shall be authorized to obtain funds through financing arrangements with health coverage providers, and other arrangements including advances from the Participating Governmental Units. The Board shall determine the respective payments for interest and other charges allocable to each Participating Governmental Unit. Such charges include, but may not be limited to, any collection costs, including but not limited to reasonable attorneys' fees.

Article 12 Amendment Procedure

This Agreement may be amended at any time by the affirmative vote of each of the public authorities (Board of Selectmen and Acton-Boxborough Regional School Committee) representing each Participating Governmental Unit.

Article 13 Liability Following Termination of or Withdrawal from Participation

It is understood and agreed that the liability of a Participating Governmental Unit under contract purchased through this Agreement, upon termination of or withdrawal from participation, shall be limited to the following:

- 13.1** The former Participating Governmental Unit's proportionate share of any deficit in the Joint Purchase Trust as of its termination date. Payment shall be made by the former Participating Governmental Unit to the Trust within thirty (30) days of notice of the amount due. The Joint Purchase Trust will notify the withdrawn or terminated member of its share of the deficit within thirty (30) days of the annual reconciliation of the Trust fund;
- 13.2** Any open premium charges, interest charges, or other expenses allocable to the Participating Governmental Unit prior to the termination date of participation or incurred by the Participating Governmental Unit but not yet billed to the Participating Governmental Unit as of the termination date of participation;
- 13.3** Where required by law that a covered member or dependent be permitted to remain on the plan after the date the former Participating Governmental Unit terminates or withdraws participation, the claims expenses, associated administration charges, reinsurance charges,

and a separate administration charge for processing such payments shall be billed to the governmental unit on a monthly basis;

13.4 Any surplus owed to a former Participating Governmental Unit based on its proportionate share as described in Article 10 above shall be paid to the governmental unit within sixty (60) days of the annual trust fund reconciliation; and

13.5 Any collection costs including but not limited to reasonable attorneys' fees.

Article 14 Hold Harmless Protection

Each Participating Governmental Unit agrees that as a precondition for entering into this Agreement each representative designated by the Participating Governmental Unit to serve on the Board shall be indemnified and held harmless from personal loss and expense, including reasonable legal fees and costs, if any, to the full extent permitted by all applicable statutes.

Indemnification shall be provided by each Participating Governmental Unit for liability arising from all activities directly related to the execution of the Agreement and the establishment of this joint Purchase Trust and all related activities, commencing on and after the effective date of this Agreement through and including the date which such designated representative terminates his or her position as a Member or Alternate Member of the Board. This hold harmless protection shall include indemnification for any claim, demand, suit, or judgment for any act or omission. This hold harmless status shall include any and all activities related to such Board participation, including but not limited to holding an office as Board member, communications and all other acts related to the appointment as a representative agent of the Participating Governmental Unit.

Article 15 Certification of Funds

It is understood and agreed that each Participating Governmental Unit shall provide adequate funds to pay its proportionate share of the Joint Purchase Trust insurance premium and or fee for group health insurance and other related expenses approved by the Board in a timely manner. The appropriate public officials shall certify annually, upon request of the Board, the availability of such funds.

Article 16

Except as specified in Articles 11 and 13, in the event any legal action or proceeding is brought by any party to this Agreement in connection with the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs to be paid by the non-prevailing party.

Article 17 Signatories to the Agreement

By our signatures, we, the undersigned appropriate public authority evidence our acceptance of the terms of this Agreement:

For: _____

Participating Governmental Unit

Signature	Title	Date

,or take any other action relative thereto.

SUMMARY

Direct inquiries to:
Selectman Assigned

Board of Selectmen:
Finance Committee:

ARTICLE AP# TRUST FUND MANAGEMENT AND REPORTING
(Majority Vote)

(Note to Board of Selectmen: Staff has been working with the proponents of this bylaw. At this time we have two versions of proposed wording, 1 by staff and 1 by the petitioner. The first version appearing below is the proposed version from staff. The second version is the latest counter proposal by the petitioners. We hope to have further discussions in this regard early in the week of February 24.)

(STAFF VERSION)

TRUST FUND MANAGEMENT AND REPORTING

To see if the Town of Acton will vote to adopt a new bylaw as follows:

I. Purpose

The purpose of this bylaw is to establish a Trust Fund Advisory Committee to make recommendations to the Town Treasurer with respect to investment of the trust funds held by the Town for which the several elected or appointed individual trustees or boards of trustees are responsible.

2. Investment Advisory Committee

- 2.1 The Town Moderator shall appoint a committee of not fewer than three (3) nor more than five (5) Acton citizens to make recommendations to the Town Treasurer on the investment of the Town trust funds. To the extent feasible those appointed shall have experience in the investment and management of funds. At least one member of the Committee shall be a Trustee of one or more of the trust funds
- 2.2 The Moderator shall appoint the initial members of the Committee effective July 1, 2003. One member shall be appointed for a term of one year; one or two members shall be appointed for a term of two years; and one or two members shall be appointed for a term of three years. Their successors shall be appointed for terms of three years and shall serve until their replacements are appointed. Members may be appointed for successive terms. If a member resigns or fails to attend three successive meetings or is otherwise unwilling or incapable of serving, the Moderator shall appoint a successor who shall serve for the balance of his term.

3. Duties of Trust Fund Advisory Committee.

- 3.1 The Committee shall meet not less than quarterly with the Town Treasurer to review the investment of town trust funds and make recommendations for changes

they may deem desirable; provided however that no funds shall be invested in any manner inconsistent with the terms of such trusts.

- 3.2 Notwithstanding such recommendations the Town Treasurer shall have exclusive authority to make such investments as he determines are in accordance with and in the best interest of the Town.
- 3.3 The Town Treasurer shall make available quarterly, to the individual Trustee Boards of every trust fund held by the Town, a summary report of investment results for the previous fiscal quarter. Such reports shall also be made available to the public through the Citizen's Library and the Acton Memorial Library. Each report shall list for the pooled trust funds and for any trust funds separately invested, the individual securities or accounts in which the funds were invested .

4. Annual Report to Town

- 4.1 The Town Treasurer shall assist the individual Trustee Boards in preparing an annual report on trust funds for inclusion in their Annual Town Report.
- 4.2 The annual report shall contain the following financial data for each trust for the previous fiscal year
 - a. the date of establishment of the trust
 - b. the market value of the trust at the beginning of the fiscal year
 - c. the market value at the end of the fiscal year
 - d. the earnings (dividends, interest and realized capital gains) during the fiscal year
 - e. the cost of investment advice and any other administrative costs allocated to each fund during the fiscal year

(CITIZEN VERSION)

TRUST FUND INVESTMENT AND REPORTING

To see if the Town of Acton will vote to adopt a new bylaw as follows:

1. Purpose

The purpose of this bylaw is to establish procedures and reporting requirements for the Town Treasurer with respect to the pooled trust funds, and any individually invested trust funds, for which the several elected or appointed individual trustees or boards of trustees are responsible; and to establish two advisory committees to assist him in so doing.

2. Investment Advisory Committee

- 2.1 The Town Moderator shall appoint a committee of not fewer than three (3) nor greater than five (5) Acton citizens to advise the Town Treasurer on the investment of the trust funds. To the extent feasible those appointed shall have experience in the investment and management of funds. At least one member of the Committee shall be a Trustee of one or more funds.
- 2.2 The Moderator shall appoint the initial members of the Committee effective July 1, 2003. One member shall be appointed for a term of one year; one or two members shall be appointed for a term of two years; and one or two members shall be appointed for a term of three years. Their successors shall be appointed for terms of three years and shall serve until their replacements are appointed. Members may be appointed for successive terms. If a member resigns or fails to attend three successive meetings or is otherwise unwilling or incapable of serving, the Moderator shall appoint a successor who shall serve for the balance of his/her term.
- 2.3 This committee shall meet not less than quarterly with the Town Treasurer and, as appropriate, with any fiduciaries retained by the town, to review the status of the invested funds and make recommendations with regard to investments. Notwithstanding such recommendations, the Town Treasurer shall have exclusive authority to make such investments as he determines are in accordance with and in the best interest of the Town; provided however that no funds shall be invested in any manner inconsistent with the terms of such trusts.

3. Trust Fund Advisory Committee

- 3.1 The Town Moderator shall appoint a committee of not fewer than three (3) nor greater than five (5) Acton citizens, with the majority being current trustees, who shall assist the Town Treasurer in preparing the annual report on trust funds for inclusion in the Annual Town Report and the quarterly reports to Trustees, required by paragraphs 4.1 and 4.2 herein.
- 3.2 The Moderator shall appoint the initial members of the Committee effective July 1, 2003. One member shall be appointed for a term of one year; one or two members shall be appointed for a term of two years; and one or two members shall be appointed for a term of three years. Their successors shall be appointed for terms of three years and shall serve until their replacements are appointed. Members may be appointed for successive terms. If a member resigns or fails to attend three successive meetings or is otherwise unwilling or incapable of serving, the Moderator shall appoint a successor who shall serve for the balance of his/her term.

4. Reporting Requirements

- 4.1 Annual Report
 - 4.1.1 The Town Treasurer shall annually prepare a report for inclusion in the Annual Town Report describing the status of the pooled trust funds, and any individually invested trust funds, current as of the completion of the just previous fiscal year. This report shall contain, at a minimum, the following data for each trust displayed in readily understandable tabular form.

- a. the date of establishment
- b. the original principal
- c. the market value at the beginning of the just previous fiscal year
- d. the market value at the end of the just previous fiscal year
- e. the earnings (dividends, interest, realized capital gains and/or losses) and any funds added
- f. the cost of investment and any other administrative costs
- g. the total expenditures authorized and expended by the trustees of each fund

4.1.2 The annual report shall also specify, for the pooled trust funds and any trust funds separately invested, the individual securities or accounts in which the funds were invested for the just previous fiscal year and the percentage of the total pool or individual trust invested in each security or account.

4.2 Quarterly Reports

4.2.1 The Town Treasurer shall make available quarterly, to the individual trustees or chairperson of every board of trustees, the earnings (dividends, interest, realized capital gains and/or losses) and any added funds during the just previous fiscal quarter. Such report or reports covering the most recent three (3) years shall also be made available to the public through the Acton Memorial Library and the West Acton Citizen's Library.

Revision dated: 2/15/03

Direct Inquires:
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE AQ REZONE SKATE PARK LAND
(2/3 vote required)

To see if the Town of Acton will vote to amend the zoning map, Map No. 1, by rezoning from General Industrial (GI) to Agriculture Recreation Conservation (ARC) an area of land shown as parcels 16 and 16-1 on map F-3 of the 2002 Town Atlas.

,or take any other action relative thereto.

SUMMARY

The subject +/-1.6-acre property at 66 Hayward Road is the future site of the T.J. O'Grady Memorial Skateboard Park. Transfer of Ownership from the Commonwealth of Massachusetts to the Town of Acton is presently underway. The zoning change will accommodate the proposed use and design of the park.

Direct inquiries to: Roland Bartl, AICP, Town Planner - 264.9636
Selectman Assigned:

Selectmen:
Finance Committee:
Planning Board:

**ARTICLE AR HOME RULE PETITION TO THE GENERAL COURT CONCERNING THE SOUTH
ACTON DEPOT LAND
(Majority Vote)**

To see if the Town will petition the General Court to adopt a home rule act authorizing the Board of Selectmen to lease, for a term of up to XX years, a parcel of land shown as parcel XX Plate XX of the Assessors Maps (formerly the South Acton Train Depot) for the purpose of constructing private parking facilities, upon such terms and conditions as the Board of Selectmen may determine, in substantially the form set forth below:

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. The Town of Acton is hereby authorized to lease Parcel XX, Plate XX of the Assessors Maps for a term of not more than XX years, for the purpose of constructing private parking facilities.

Section 2. Notwithstanding any other provisions of law, including General Laws Chapter 30B, the Board of Selectmen is authorized to issue a request for proposals for such purposes, to determine the terms and conditions of such request, to accept any proposal or negotiate changes in any proposal, or to reject all proposals, as they determine to be in the best interests of the Town, and to take all others actions as may be necessary or desirable to carry out such project.

Section 3. This act shall take effect upon its passage.

SUMMARY

The purpose of this article is to allow the Selectmen to lease a parcel of land in South Acton for purposes of private parking.

Under the laws of the Commonwealth, the lease of a municipal facility for more than ten (10) years requires Legislative approval. This Article seeks the necessary Town Meeting authorization for the Board of Selectmen to petition the Legislature for the required "Home Rule Legislation" to achieve the longer lease term.

Direct Inquiries to:
Selectmen Assigned:

Selectmen:
Finance Committee:

ARTICLE AS COMMUTER LOT ZONING
(2/3 Vote Required)

To see if the Town will vote to amend the zoning bylaw by changing zoning of the South Acton Commuter Lot (Parcel XX PlateXX) from R-2 to South Acton Village (SAV), or take any other action relative thereto.

SUMMARY

Passage of this article will allow use of parking facilities at the commuter lot by businesses in the South Acton Village District.

Direct inquiries to:
Selectman Assigned:

Selectmen:
Finance Committee:

ARTICLE AT USE OF FUNDS TO REDUCE THE TAX RATE – FREE CASH
(Majority Vote Required)

To see if the Town will determine an amount of Free Cash which shall be used for the purpose of reducing the Tax Rate for the fiscal year beginning July 1, 2003, or take any other action relative thereto.

SUMMARY

This article requests that the Town Meeting appropriate a sum of money from Free Cash to offset the Tax Levy, the specific amount to be designated at Town Meeting. Free Cash is additional appropriation authority allowed us by operation of certain formulae calculations performed once a year by the Massachusetts Department of Revenue, and is not the same as cash in the bank.

Direct inquiries to: John Murray, Assistant Town Manager – 264-9612
Selectman Assigned: F. Doré Hunter

Selectmen:
Finance Committee: